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COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 18 OF THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

Third and fourth periodic reports of States parties

Addendum

CHINA*

* For the initial report submitted by the Government of China, see CEDAW/C/5/Add.14; for its consideration by the Committee, see CEDAW/C/SR.33, CEDAW/C/SR.34 and CEDAW/C/SR.36, and Official Records of the General Assembly, Thirty-ninth Session, Supplement No. 45 (A/39/45), paras. 125-180. For the second periodic reports submitted by the Government of China, see CEDAW/C/13/Add.26; for its consideration by the Committee, see CEDAW/C/SR.195, and Official Records of the General Assembly, Forty-seventh Session, Supplement No. 38 (A/47/38), paras. 145-218. For the third and fourth periodic reports submitted by the Government of China, see CEDAW/C/CHN/3-4.

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INITIAL REPORT SUBMITTED IN ACCORDANCE WITH THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

Preface

1. The Government of the People's Republic of China resumed the exercise of sovereignty over Hong Kong with effect from 1 July 1997 and established a Hong Kong Special Administrative Region on the same date. Under the principle of "one country, two systems", the socialist system and policies are not practised in the Hong Kong Special Administrative Region, and the previous capitalist system and way of life shall remain unchanged for 50 years.

2. The Convention on the Elimination of All Forms of Discrimination against Women (hereinafter referred to as "the Convention") was extended to Hong Kong with the consent of the Government of the People's Republic of China and the Government of the United Kingdom of Great Britain and Northern Ireland on 14 October 1996. The Government of the People's Republic of China notified the Secretary-General of the United Nations that the Convention would apply to the Hong Kong Special Administrative Region with effect from 1 July 1997.

3. In accordance with article 18 of the Convention, the Government of the People's Republic of China submits herewith an initial report in respect of the implementation of the Convention in the Hong Kong Special Administrative Region. The report is compiled in accordance with the Consolidated Guidelines for the Initial Part of State Party Reports (HRI/1991/1) and the Guidelines Regarding the Form and Content of Initial Reports of State Parties (CEDAW/C/7/Rev.1). The report as set out in the annex hereto, is divided into two parts. Part I consists of a general profile of the Hong Kong Special Administrative Region, giving background information on the Region in which the Convention is applicable. Part II provides specific information in relation to each provision of the Convention.

ANNEX

PART I

I. GENERAL PROFILE OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION

A. Land and people

Background statistical information, using the most up-to-date figures available, is as follows:

(a) Population by sex (millions)

Sex	Mid-1987	Mid-1992	Mid-1997
Male	2.9	2.9	3.3
Female	2.7	2.9	3.2
Total	5.6	5.8	6.5

(b) Population by age group and sex

Age	Sex	Percentage of total population		
		Mid-1987	Mid-1992	Mid-1997
Under 15	Male	11.7	10.6	9.4
	Female	10.8	9.9	8.7
15-64	Male	36.3	36.2	36.2
	Female	33.2	34.2	35.3
65 and over	Male	3.4	4.0	4.7
	Female	4.5	5.0	5.7
All age groups	Male	51.4	50.8	50.3
	Female	48.6	49.2	49.7

(c) Educational attainment (for population aged 15 and above)

Educational attainment	Sex	Percentage		
		1986	1991	1996
No schooling/kindergarten	Male	3.6	3.6	2.5
	Female	10.5	9.1	7.0
Primary	Male	15.8	13.2	11.2
	Female	13.5	12.0	11.4
Secondary and above	Male	31.8	33.8	35.8
	Female	24.8	28.2	32.1

(d) Literacy rate 1984: 88.4 per cent

1996: 90.5 per cent

(e) Percentage of population (excluding mutes) aged five and above by usual language/dialect

Usual language/dialect	Percentage	
	1991	1996
Cantonese	88.7	88.7
Putonghua	1.1	1.1
Other Chinese dialects	7.0	5.8
English	2.2	3.1
Others	1.0	1.3
	100.0	100.0

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(f) Crude birth and death rates

	1987	1992	1997
Crude birth rate (per 1,000)	12.6	12.3	9.1*
Crude death rate (per 1,000)	4.8	5.3	4.8*

(g) Expectation of life at birth (years)

Sex	1987	1992	1997
Male	74.2	74.8	76.4*
Female	79.7	80.7	81.9*

(h) Infant mortality rate (per 1,000 live births)

1987	1992	1997
7.4	4.8	4.0*

(i) Maternal mortality rate (Number of deaths per 100,000 total births)

1987	1992	1996
4.3	5.5	3.1*

(j) Fertility rate

	1987	1992	1997
General fertility rate (per 1,000 women aged 15-49, excluding female foreign domestic helpers)	47.9	46.3	33.5

* Provisional figure.

(k) Percentage of household heads by sex

Sex	1986	1991	1996
Male	73.0	74.3	72.8
Female	27.0	25.7	27.2

(l) Unemployment rate
(averages of the estimates obtained from the quarterly General Household Surveys of the year)

1987	1992	1997
1.7	2.0	2.2

(m) Rate of inflation

(i) Composite Consumer Price Index (CPI)

Year	Annual rate of increase in CPI (percentage)
1990	10.2
1991	11.6
1992	9.6
1993	8.8
1994	8.8
1995	9.1
1996	6.3
1997	5.8

Note: The composite CPI is compiled on the basis of expenditure patterns of about 90 per cent of households in the HKSAR, which had an average monthly expenditure of HK$ 4,000-HK$ 59,999 during the base period of October 1994-September 1995. This approximately corresponds to a monthly expenditure range of HK$ 4,600-HK$ 69,200 at 1997 prices.

(ii) Implicit price deflators of Gross Domestic Product (GDP)#

Deflator year	(1990=100)	Annual rate of change (percentage)
1990	100.0	7.5
1991	109.2	9.2
1992	119.8	9.7
1993	130.0	8.5
1994	139.0	6.9
1995	142.5	2.5
1996	150.2	5.4
1997	159.0	5.9

(n) GDP for 1990-1997#

Year	At current market prices (millions of US dollars)	At constant (1990) market prices (millions of US dollars)
1990	74 791	74 791
1991	86 027	78 756
1992	100 676	84 013
1993	116 011	89 222
1994	130 808	94 139
1995	139 238	97 703
1996	154 171	102 622
1997	171 406	107 796

GDP figures refer to the estimates released in March 1998.

(o) Per capita income (per capita GDP for 1990-1997#)

Year	At current market prices (US$)	At constant (1990) market prices (US$)
1990	13 111	13 111
1991	14 956	13 692
1992	17 357	14 484
1993	19 660	15 120
1994	21 674	15 598
1995	22 618	15 871
1996	24 429	16 261
1997	26 362	16 579

(p) External debt: the HKSAR Government does not incur external debts.

GDP figures refer to the estimates released in March 1998.

B. General political structure

Constitutional document

1. In accordance with the provisions of article 31 and article 62, subparagraph 13, of the constitution of the People's Republic of China, as well as the relevant decisions of the National People's Congress (NPC) adopted at the Third Session of the Seventh NPC on 4 April 1990, the Hong Kong Special Administrative Region of the People's Republic of China (HKSAR) was established on 1 July 1997. The Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China was also put into effect on 1 July 1997. Under the principle of "one country, two systems", the socialist system and policies are not practised in the HKSAR, and Hong Kong's previous capitalist system and way of life will remain unchanged for 50 years. A copy of the Basic Law is contained in appendix A.

2. To fully realize the principle of "one country, two systems", the Basic Law sets out the broad framework of the relationship between the Central Authorities and the HKSAR (Chapter II); the fundamental rights and duties of Hong Kong residents (Chapter III), the political structure (Chapter IV), economic, financial and social systems of the HKSAR (Chapters V and VI), its conduct of external affairs (Chapter VII); as well as the interpretation and amendment of the Basic law (Chapter VIII).

3. The Basic Law provides, inter alia, that:

(a) The HKSAR shall enjoy a high degree of autonomy except in defence and foreign affairs, and shall exercise executive, legislative and independent judicial power, including that of final adjudication. The power of final adjudication of the HKSAR shall be vested in the Court of Final Appeal established in the Region;

(b) The executive authorities and legislature of the HKSAR shall be composed of permanent residents of Hong Kong;

(c) The laws previously in force in Hong Kong - that is, the common law, rules of equity, ordinances, subordinate legislation and customary law - shall be maintained, except for any that contravene the Basic Law, and subject to any amendment by the legislature of the HKSAR;

(d) National laws shall not be applied in the HKSAR except for those listed in annex III to the Basic Law and that the laws listed therein shall be applied locally by way of promulgation or legislation by the Region. The Standing Committee of the National People's Congress may add to or delete from the list of laws in annex III after consulting the Committee for the Basic Law of the HKSAR and the HKSAR Government;

(e) The HKSAR is authorized to conduct external affairs on its own. The HKSAR may on its own, using the name "Hong Kong, China", maintain and develop relations and conclude and implement agreements with foreign States and regions and relevant international organizations in the appropriate fields, including

economic, trade, financial and monetary, shipping, communications, tourism, cultural and sports fields;

(f) The HKSAR remains a free port, a separate customs territory and an international financial centre. There shall be free flow of capital. HKSAR issues and manages its own currency;

(g) The HKSAR formulates its own policies on the development of education, science, culture, sports, labour and social services, and Hong Kong residents enjoy freedom of religious belief;

(h) Hong Kong residents enjoy a wide range of freedoms and rights; this will be further dealt with under the section entitled "General legal framework within which human rights are protected"; and

(i) The provisions of the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and international labour conventions as applied to Hong Kong shall remain in force.

System of government

General structure

4. The Chief Executive of the HKSAR is the head of the Region. An Executive Council assists him in policy-making. The Legislative Council of the HKSAR is the legislature of the Region: it legislates, controls public expenditure and raises questions on the work of the Government. The method for the formation of the Legislative Council is stipulated in the Basic Law and the Decision on the Method for the Formation of the First Government and the First Legislative Council of the HKSAR, adopted at the Third Session of the Seventh NPC on 4 April 1990. The method for formation of the district organizations, including the municipal councils and district boards, is to be prescribed by law.

Chief Executive

5. The Basic Law provides that the Chief Executive of the HKSAR shall be selected by election or through consultations held locally and shall be appointed by the Central People's Government. The method for selecting the Chief Executive is to be specified in the light of the actual situation in the HKSAR and in accordance with the principle of gradual and orderly progress.

6. The first Chief Executive was selected in accordance with the NPC Decision on the Method for the Formation of the First Government and the First Legislative Council of the HKSAR. A Selection Committee was formed to recommend a candidate to the Central People's Government for appointment. The Selection Committee comprised 400 members from various sectors of the community. In future, the Chief Executive will be elected by an Election Committee composing of 800 members.

7. Annex I of the Basic Law further provides that amendments to the method for selecting the Chief Executive for terms subsequent to the year 2007 may be made with the endorsement of a two-thirds majority of all members of the Legislative

Council and the consent of the Chief Executive. Any such amendments are to be reported to the Standing Committee of the NPC for approval. Article 45 of the Basic Law provides that the ultimate aim is the selection of the Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures.

Executive Council

8. Members of the Executive Council of the HKSAR are appointed by the Chief Executive from among the principal officials of the executive authorities, members of the Legislative Council and public figures. Their appointment or removal shall be decided by the Chief Executive. The total number of these appointed members is not specified. At present, there are 14 members.

9. The Council normally meets once a week. The Chief Executive presides over its meetings. He is required by article 56 of the Basic Law to consult the Executive Council before making important policy decisions and introducing bills to the Legislative Council. Members tender their advice on an individual basis, but the Council's conclusions are presented as collective decisions.

Legislative Council

10. Article 68 of the Basic Law provides that the HKSAR Legislative Council shall be constituted by election. The method for its formation shall be specified in the light of the actual situation in the HKSAR and in accordance with the principle of gradual and orderly progress. the composition of the Legislative Council in its first three terms will be as follows:

Membership	First term 1998-2000 (two years)	Second term 2000-2004 (four years)	Third term 2004-2008 (four years)
(a) Elected by geographical constituencies through direct elections	20	24	30
(b) Elected by functional constituencies	30	30	30
(c) Elected by an election committee	10	6	-
Total	60	60	60

11. Annex II of the Basic Law further provides that amendments to the method for forming the Legislative Council after 2007 may be made with the endorsement of a two-thirds majority of all the members of the Council and the consent of the Chief Executive. Any such amendments are to be reported to the Standing Committee of the NPC for the record. According to article 68 of the Basic Law,

the ultimate aim is the election of all the members of the Legislative Council by universal suffrage.

12. According to article 73 of the Basic Law, the powers and functions of the Legislative Council include enactment, amendment or repeal of laws in accordance with the provisions of the Basic Law and legal procedures; examining and approving budgets introduced by the Government; approving taxation and public expenditure; receiving and debating the policy addresses of the Chief Executive; raising questions on the work of the Government; debating any issue concerning public interests; endorsing the appointment and removal of the judges of the Court of Final Appeal and the Chief Judge of the High Court; and receiving and handling complaints from Hong Kong residents. The Council is also empowered to impeach the Chief Executive under certain prescribed circumstances.

Municipal councils

13. The municipal councils comprise the Urban Council and the Regional Council. The two bodies operate at the regional level and provide "municipal services" in the urban areas and the New Territories, respectively. These services include maintaining environmental hygiene, protecting public health, and providing facilities and programmes for sports, recreation, culture and entertainment. The Councils are statutory bodies and are financially autonomous.

District Boards

14. The District Boards are statutory bodies established to provide a forum for public consultation and participation at the district level. They play an advisory role with substantial responsibility for the management of district affairs and community halls. They discuss a wide range of matters affecting the well-being of residents in their districts and recommend appointments to the various local bodies. They are also allocated public funds for undertaking cultural and recreational activities for local communities and for minor environmental improvement works.

Provisional Legislative Council, Provisional Municipal Councils and Provisional District Boards

15. The former legislature of Hong Kong established under British rule ceased to exist on 1 July 1997 after the existing constitutional instruments had lapsed and the People's Republic of China resumed its exercise of sovereignty over Hong Kong. In preparation for the establishment of the HKSAR, the Preparatory Committee had, on 24 March 1996, decided to establish the Provisional Legislative Council to perform specific tasks to enable the business of government to continue before elections could be held to form the first Legislative Council of the HKSAR.

16. The Provisional Legislative Council comprised 60 members who were elected by the Selection Committee for the First Government of the HKSAR on 21 December 1996. Major tasks of the Council were to enact laws which were essential for the normal operation of the HKSAR; to amend and repeal laws where necessary, in accordance with the Basic Law; to examine and approve budgets introduced by the Government; to approve taxation and public expenditure; to

receive and debate the policy address of the Chief Executive; and to endorse the appointment of the judges of the Court of Final Appeal and the Chief Judge of the High Court. The term of office of Council members expired on 30 June 1998.

17. The former Municipal Councils and District Boards established under British rule were dissolved on 30 June 1997. In preparation for the establishment of the HKSAR, the Preparatory Committee decided on 1 February 1997 that provisional district organizations including the Provisional Urban Council, the Provisional Regional Council and Provisional District Boards should be set up on 1 July 1997 by the HKSAR Government before elections could be held to form the first district organizations of the Region. The members of these provisional bodies were appointed by the Chief Executive of the HKSAR. Their term of office will end no later than 31 December 1999.

18. The Provisional Urban Council and Provisional Regional Council each comprise 50 members. Members include all elected members of the former Urban Council and the Regional Council. In addition, nine new members were appointed to the Provisional Urban Council and 11 new members to the Provisional Regional Council. The 18 Provisional District Boards have a total of 468 members, including all elected members of the former District Boards, and 95 new members. The Government is now conducting a review of the Municipal Councils and District Boards so as to decide whether the present structure of district organizations can continue to ensure the efficient and responsive delivery of services to our evolving community.

The structure of the Administration

19. The Chief Executive is the head of the HKSAR Government. If the Chief Executive is not able to discharge his duties for a short period, such duties will temporarily be assumed by the Chief Secretary for Administration, the Financial Secretary or the Secretary for Justice, in that order of precedence.

20. Departments of Administration, Finance and Justice and various bureaux, divisions and commissions have been established in the HKSAR Government. There are currently 13 policy bureaux and two resource bureaux concerned with finance and the civil service, respectively. The bureaux, each headed by a Secretary, collectively form the government Secretariat.

21. With certain exceptions, the heads of government departments are responsible to the bureaux Secretaries for the direction of their departments and the efficient implementation of approved government policy. The exceptions are the Independent Commission against Corruption and the Commission of Audit, each of which functions independently and is accountable to the Chief Executive.

The judicial system of the HKSAR

22. The legal system is firmly based on the rule of law and a judiciary which is independent of the legislative and executive branches of government.

23. Article 19 of the Basic Law provides that the HKSAR shall be vested with independent judicial power, including that of final adjudication. The courts of the HKSAR shall have jurisdiction over all cases in the Region, except that the

restrictions on their jurisdiction imposed by the legal system and principles previously in force in Hong Kong shall be maintained.

24. The courts of justice comprise the Court of Final Appeal, the High Court (which consists of the Court of Appeal and the Court of First Instance), the District Court, the Magistracy, the Lands Tribunal, the Labour Tribunal, the Small Claims Tribunal, the Obscene Articles Tribunal and the Coroner's Court. The courts hear and determine all criminal trials and civil disputes, whether between individuals or between individuals and Government of the Region.

25. Article 82 of the Basic Law provides that the power of final adjudication of the HKSAR shall be vested in the Court of Final Appeal of the Region, which may as required invite judges from other common law jurisdictions to sit on the Court of Final Appeal. By virtue of article 83, the structure, powers and functions of the courts of the HKSAR at all levels are prescribed by law.

26. All judges and judicial officers must have qualified as legal practitioners in Hong Kong or in a common law jurisdiction and have substantial professional experience. Article 88 of the Basic Law provides that "Judges of the courts of the HKSAR shall be appointed by the Chief Executive on the recommendation of an independent commission composed of local judges, persons from the legal profession and eminent persons from other sectors."

27. Judges have security of tenure. Article 89 of the Basic Law provides that "A judge of a court of the HKSAR may only be removed for inability to discharge his or her duties, or for misbehaviour, by the Chief Executive on the recommendation of a tribunal appointed by the Chief Justice of the Court of Final Appeal and consisting of not fewer than three local judges. The Chief Justice of the Court of Final Appeal of the HKSAR may be investigated only for inability to discharge his or her duties, or for misbehaviour, by a tribunal appointed by the Chief Executive and consisting of not fewer than five local judges and may be removed by the Chief Executive on the recommendation of the tribunal and in accordance with the procedures prescribed in this Law."

C. General legal framework within which human rights are protected

Rule of law

28. The fundamental basis for the protection of human rights is the rule of law maintained by an independent judiciary (see paras. 22-27 above). The principles that inform the rule of law are:

(a) Supremacy of the law. No individual is punishable or can lawfully be made to suffer personally or financially except for a breach of law established before the independent courts. Where, under the law, an official or an authority has a discretion to make a decision, that discretion must be exercised legally, fairly and reasonably. Where it does not do so, the decision must be capable of successful challenge before the courts. The Basic Law guarantees the right of Hong Kong residents to institute legal proceedings in the courts against the acts of the executive authorities and their personnel;

(b) Equality before the law. Article 25 of the Basic Law provides that all Hong Kong residents shall be equal before the law. Article 22 provides that all offices set up in the HKSAR by departments of the Central People's Government, or by provinces, autonomous regions, or municipalities directly under the central Government and personnel of these offices shall abide by the laws of the Region. Article 14 provides that members of the garrison shall, in addition to abiding by national laws of the People's Republic of China, abide by the laws of the HKSAR. Article 35 also provides that Hong Kong residents shall have the right to institute legal proceedings in the courts against the acts of the executive authorities and their personnel. No government authority or official, and no individual, is above the law. All persons, regardless of race, rank, politics, religion or sex, are equal before the law and subject to the same law. Individuals and the HKSAR Government have the same access to the courts to enforce legal rights or defend an action.

Some commentators have argued that the principle of equality before the law was compromised by a recent amendment to the Interpretation and General Clauses Ordinance (Chapter 1 of the Laws of the HKSAR). The amendment in question was a replacement of the reference to the "Crown" by the "State" in section 66 of the Ordinance. Before 1 July 1997, section 66 used to provide that no ordinance was binding on the Crown unless it expressly stated, or necessarily implied, that the Crown was bound. After 1 July 1997, the reference to the "Crown" in section 66 had to be amended. The amendment to section 66 of Chapter 1 was simply made in order to preserve the substance of the law before 1 July 1997 and reflect the change of sovereignty.

Human rights guarantees in the Basic Law

29. It is now possible to employ legal arguments and take legal action based on the principle of consistency with the Basic Law. Indeed, the application of the Basic Law has already been tested in several court cases.

30. Article 4 of the Basic Law provides that the HKSAR shall safeguard the rights and freedoms of residents of the HKSAR and of other persons in the Region in accordance with law. The Basic Law guarantees a wide range of freedoms and rights, including:

(a) Equality before the law;

(b) Freedom of speech, of the press and of publication; freedom of association, of assembly, of procession and of demonstration; and the right and freedom to form and join trade unions, and to strike;

(c) Freedom of the person; freedom from torture; freedom from arbitrary or unlawful arrest, detention or imprisonment; freedom from arbitrary or unlawful search of the body; and freedom from arbitrary or unlawful deprivation of life;

(d) Freedom from arbitrary or unlawful search of, or intrusion into, one's home or other premises;

(e) Freedom and privacy of communication;

(f) Freedom of movement within the HKSAR, freedom of emigration to other countries and regions and freedom to travel and to enter or leave the Region;

(g) Freedom of conscience; freedom of religious belief and freedom to preach and to conduct and participate in religious activities in public;

(h) Freedom of choice of occupation;

(i) Freedom to engage in academic research, literary and artistic creation, and other cultural activities;

(j) The right to confidential legal advice, access to the courts, choice of lawyers for timely protection of their lawful rights and interests or for representation in the courts, and to judicial remedies; right to institute legal proceedings in the courts against the acts of the executive authorities and their personnel;

(k) The right to social welfare in accordance with law; and

(l) Freedom of marriage and the right to raise a family freely.

Persons in Hong Kong other than Hong Kong residents shall, in accordance with the law, enjoy the rights and freedoms of Hong Kong residents prescribed by Chapter 3 of the Basic Law. In addition, permanent residents of the HKSAR shall enjoy the rights to vote and to stand for election in accordance with law.

Effect of other human rights instruments on Hong Kong law

31. Article 39 of the Basic Law and the Joint Declaration guarantee that the provisions of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights as applied to Hong Kong shall remain in force. The rights and freedoms enjoyed by Hong Kong residents shall not be restricted unless as prescribed by law. Such restrictions shall not contravene the provisions of the two Covenants.

32. In general, and as is usual in common law systems, treaties that apply to Hong Kong (including human rights treaties) do not themselves have the force of law in the domestic legal system of Hong Kong. They cannot be directly invoked before the courts as the source of individual rights. However, the courts will, when possible, construe domestic legislation in such a way as to avoid incompatibility with these international obligations. The usual method of giving effect in local law to treaty obligations when these require some change in existing laws or practice is to enact specific new legislation.[1] Where this results in the creation or definition of specific legal rights and where these rights are denied or interfered with (or there is the threat of such action), a remedy will be available in the courts through the ordinary procedures of civil litigation; or the law may provide criminal sanctions.

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[1] An example is the Crimes (Torture) Ordinance (Chapter 427 of The Laws of the HKSAR) which was enacted to give effect in Hong Kong to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

The Hong Kong Bill of Rights Ordinance

33. The Hong Kong Bill of Rights Ordinance (Chapter 383 of the Laws of the HKSAR) was enacted in June 1991 specifically to give effect in local law to the relevant provisions of the International Covenant on Civil and Political Rights as applied to Hong Kong. It achieves this by setting out a detailed Bill of Rights, the terms of which are almost identical to those of the Covenant.

Adoption of laws: effect on the Bill of Rights Ordinance

34. Article 160 of the Basic Law provides that the laws previously in force in Hong Kong shall be adopted as laws of the Region except for those which the Standing Committee of the NPC declares to be in contravention of the Basic Law. In February 1997, the Standing Committee adopted the Bill of Rights Ordinance as part of the laws of the Region except for three sections relating to the interpretation and application of the Ordinance.[3] The Standing Committee considered that these sections had an overriding effect on other laws, including the Basic Law. As such, they contravened the Basic Law and could not be adopted.

35. The non-adoption of these sections has no effect on the protection of human rights in the HKSAR in view of the constitutional guarantee in article 39 of the Basic Law - that the provisions of the International Covenants on Human Rights shall be implemented through the laws of the HKSAR. The substantive protections in Part II of the Ordinance (almost identical to the provisions of the International Covenant on Civil and Political Rights) are unchanged. So, too, are the remedies provided under section 6 for contravention of the Ordinance and the binding effect on the Government and all public authorities under section 7.

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[3] The three sections were:

(a) Section 2(3): "In interpreting and applying this Ordinance, regard shall be had to the fact that the purpose of this Ordinance is to provide for the incorporation into the law of Hong Kong of provisions of the International Covenant on Civil and Political Rights as applied to Hong Kong, and for ancillary and connected matters."

(b) Section 3: "Effect on pre-existing legislation -

(1) All pre-existing legislation that admits of a construction consistent with this Ordinance shall be given such a construction.

(2) All pre-existing legislation that does not admit of a construction consistent with this Ordinance is, to the extent of the inconsistency, repealed."

(c) Section 4: "Interpretation of subsequent legislation - All legislation enacted on or after the commencement date shall, to the extent that it admits of such a construction, be construed so as to be consistent with the International Covenant on Civil and Political Rights as applied to Hong Kong."

The full text of the Ordinance as adopted by the Standing Committee is contained in appendix B.

Legal aid

36. Legal aid in the HKSAR is mainly provided by the Legal Aid Department and the Duty Lawyer Service.

37. The Legal Aid Department provides eligible persons with legal representation in both civil and criminal cases. Applicants must satisfy the Director of Legal Aid of their financial eligibility (the means test) and of the justification for legal action (the merits test). In criminal cases, the Director of Legal Aid has discretion to grant legal aid to an applicant who fails the means test if the Director is satisfied that it is in the interests of justice to do so. Moreover, in capital cases (including murder), the granting of legal aid to persons for their defence or appeal is mandatory so long as they can pass the means test.

The Duty Lawyer Service

38. The Duty Lawyer Service is managed and administered by the Law Society and the Bar Association of Hong Kong. It complements the services by the Legal Aid Department and comprises:

(a) The Duty Lawyer Scheme, which offers legal representation to defendants (juvenile and adult) who are charged in the magistracies and who cannot afford private representation. Applicants are subject to a simple means test and a merits test based on the "interests of justice" principle in accordance with article 14 of the International Covenant on Civil and Political Rights and article 11 of the Hong Kong Bill of Rights;

(b) The Legal Advice Scheme, which provides members of the public with free legal advice through individual appointments; and

(c) The "Tel Law Scheme", which provides taped information on legal aspects of everyday problems.

Office of the Ombudsman

39. The Ombudsman - formerly known as the Commissioner for Administrative Complaints (COMAC) - is an independent authority, established under the Ombudsman Ordinance (previously known as the COMAC Ordinance). The Ombudsman investigates and reports on grievances arising from maladministration. "Maladministration" includes such things as inefficient, bad or improper administrative decisions, acts, recommendations or omissions. Members of the public can complain directly to the Ombudsman. He can also initiate investigations of his own volition and may publish investigative reports of public interest. Additionally, the Ombudsman is empowered to investigate

complaints of non-compliance with the administrative Code on Access to Information.[3]

40. To enable him to carry out his functions effectively, the Ombudsman is able to appoint his own staff to carry out his duties. Subject to the Ombudsman Ordinance, he may obtain any information and documents necessary for investigations from such persons as he thinks fit; he may summon any person to provide information relating to his investigations and may enter the premises of any of the organizations under his jurisdiction to conduct investigations. He also has sufficient means with which to ensure that his recommendations are heard and acted upon.

41. After investigation of a complaint, the Ombudsman is empowered to report his opinion and reasons, together with a statement of any remedy and recommendation that is considered necessary, to the head of the organization affected. If the Ombudsman believes that there has been a serious irregularity or injustice done, he may make a report to the Chief Executive of the HKSAR. Such a report is bound by law to be laid before the Legislative Council.

42. With two exceptions, the Ombudsman has jurisdiction over all government departments of the HKSAR and major statutory bodies. The exceptions are the Police and the Independent Commission Against Corruption (ICAC). Complaints against these departments are handled by separate bodies established for that purpose (see paras. 43-44 below).

Complaints and investigations

The Police

43. The Complaints Against Police Office (CAPO) investigates all complaints about the conduct and behaviour of members of the police force. CAPO investigations are monitored and reviewed by the Independent Police Complaints Council. This is an independent body comprising non-official members appointed by the Chief Executive from a wide spectrum of the community.

The Independent Commission Against Corruption Complaints Committee (ICAC)

44. The Independent Commission Against Corruption Complaints Committee (ICAC), established in 1977, monitors and reviews the handling by the ICAC of complaints against the Commission. Again, this is an independent committee appointed by the Chief Executive. The Committee comprises mainly of members of the Executive and Legislative Councils and a representative of the Ombudsman. Persons with complaints against ICAC or its officers have direct access to the Committee as well as to ICAC itself. The investigation of such complaints is handled by a special unit of the ICAC Operations Department. When the unit has completed its investigation of a complaint, its conclusions and recommendations are submitted to the Committee for consideration.

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[3] The Ombudsman's powers in respect of the Code on Access to Information extend to the Police and the ICAC, as well as to all other departments.

Other disciplined services

45. Other disciplined services departments maintain clear guidelines and procedures for handling complaints. For example, the Correctional Services Department (CSD), which runs the Region's prisons, has a Complaints Investigation Unit to manage its internal grievance redress system for staff and prisoners. CSD staff and prisoners may also direct their complaints to the Ombudsman. The existing complaint channels are considered effective in view of the number and the nature of complaints handled.

46. The Immigration Department applies complaints procedures set out in the Immigration Service Standing Orders issued by the Director of Immigration under the authority of the Immigration Service Ordinance. Complaints about abuse of authority or maltreatment by service members can be made to the Director of Immigration and are investigated promptly in accordance with the procedures in the Standing Orders. To ensure that all complaints are properly handled, a Complaints Review Working Party examines the results of investigations, conduct reviews and recommends follow-up action. Persons who consider that they have been improperly treated or that their cases have been mismanaged also have access to the Ombudsman. If there is evidence that a member of the Immigration Service has committed a criminal offence, the Immigration Service will immediately report the matter to the police for further investigation. Disciplinary procedures against Immigration Service staff are also governed by the Immigration Service Ordinance and the Immigration Service Standing Orders. Under section 8 of the Immigration Service Ordinance, unlawful or unnecessary exercise of authority resulting in loss or injury to any person is a disciplinary offence.

D. Information and publicity

Promotion of public awareness of the human rights treaties

47. The Home Affairs Bureau of the HKSAR Government is responsible for promoting public awareness of the rights and obligations stipulated in the human rights treaties applicable to the Region. Following the enactment of the Bill of Rights Ordinance in 1991, the Committee on the Promotion of Civic Education under the Home Affairs Bureau established a Human Rights Education Subcommittee to promote public understanding of the Ordinance and respect for human rights as set out in the various treaties. Over the past six years, human rights has been one of the major emphases of the Committee's work. Recently, the Committee has increased its efforts to promote public understanding of the Basic Law which provides the constitutional guarantees for human rights protection in the Region. At the central level, a Basic Law Promotion Steering Committee was established in January 1998 to guide promotional strategy.

Government publications

48. The Government of the People's Republic of China is responsible for preparing reports in respect of the HKSAR under various human rights treaties. Draft reports are prepared by the Home Affairs Bureau of the HKSAR Government. The Bureau consults the Legislative Council and non-governmental organizations

on the state of the implementation of these treaties in the Region. It addresses their views in the reports which it tables before the Legislative Council and publishes in bound, bilingual format after the Chinese Government has submitted them to the United Nations. Copies are deposited in public libraries and posted on the Internet for public inspection.

PART II

Article 1. Defining discrimination

Definition of "Discrimination against women" in the Sex Discrimination Ordinance

1. The Sex Discrimination Ordinance defines discrimination to include both "direct discrimination" and "indirect discrimination". "Direct discrimination" means treating a person less favourably than another person in analogous circumstances because of the victimized person's sex, marital status, or pregnancy. "Indirect discrimination" involves imposing on everyone the same requirement or condition, which, however, has a detrimental effect on a particular group of persons. This kind of requirement would constitute "indirect" discrimination under the Ordinance if there is no justification for the requirement.

2. Part II, sections 5-10, of the Ordinance describes what constitutes "discrimination", while provisions in parts III and IV provide a detailed account of activities to which the Ordinance applies. The relevant sections of the Ordinance are as follows:

"PART II

DISCRIMINATION TO WHICH ORDINANCE APPLIES

5. Sex discrimination against women

(1) A person discriminates against a woman in any circumstances relevant for the purposes of any provision of this Ordinance if -

(a) on the ground of her sex he treats her less favourably than he treats or would treat a man; or

(b) He applies to her a requirement or condition which he applies or would apply equally to a man but -

(i) which is such that the proportion of women who can comply with it is considerably smaller than the proportion of men who can comply with it;

(ii) which he cannot show to be justifiable irrespective of the sex of the person to whom it is applies; and

(iii) which is to her detriment because she cannot comply with it.

(2) If a person treats or would treat a man differently according to the man's marital status, his treatment of a woman is for the purposes of subsection (1) (a) to be compared to his treatment of a man having the like marital status.

6. Sex discrimination against men

(1) Section 5, and the provisions of Parts III and IV relating to sex discrimination against women, shall be read as applying equally to the treatment of men, and for that purpose shall have effect with such modifications as are necessary.

(2) In the application of subsection (1) no account shall be taken of special treatment afforded to women in connection with pregnancy or childbirth.

7. Discrimination against married, etc. persons in employment field

(1) A person discriminates against a person of either sex in any circumstances relevant for the purposes of any provision of Part III or IV if -

(a) on the ground of his or her marital status ('the relevant marital status') he treats that person less favourably than he treats or would treat a person of the same sex with a different marital status; or

(b) he applies to that person a requirement or condition which he applies or would apply equally to a person with a different marital status but -

(i) which is such that the proportion of persons with the relevant marital status who can comply with it is considerably smaller than the proportion of persons of the same sex with a different marital status who can comply with it;

(ii) which he cannot show to be justifiable irrespective of the marital status of the person to whom it is applied; and

(iii) which is to that person's detriment because he or she cannot comply with it.

(2) For the purposes of subsection (1), a provision of Part III or IV framed with reference to discrimination against women shall be treated as applying equally to the treatment of men, and for that purpose shall have effect with such modifications as are necessary.

8. Discrimination against pregnant women in employment field

A person discriminates against a woman in any circumstances relevant for the purposes of any provision of Part III or IV if -

(a) on the ground of her pregnancy he treats her less favourably than he treats or would treat a person who is not pregnant; or

(b) he applies to her a requirement or condition which he applies or would apply to a person who is not pregnant but -

(i) which is such that the proportion of persons who are pregnant who can comply with it is considerably smaller than the proportion of persons who are not pregnant who can comply with it;

(ii) which he cannot show to be justifiable irrespective of whether or not the person to whom it is applied is pregnant; and

(iii) which is to her detriment because she cannot comply with it.

9. Discrimination by way of victimization

(1) A person ('the discriminator') discriminates against another person ('the person victimized') in any circumstances relevant for the purposes of any provision of this Ordinance if he treats the person victimized less favourably than in those circumstances he treats or would treat other persons, and does so by reason that the person victimized or any other person ('the third person') has -

(a) brought proceedings against the discriminator or any other person under this Ordinance;

(b) given evidence or information in connection with proceedings brought by any person against the discriminator or any other person under this Ordinance;

(c) otherwise done anything under or by reference to this Ordinance in relation to the discriminator or any other person; or

(d) alleged that the discriminator or any other person has committed an act which (whether or not the allegation so states) would amount to a contravention of this Ordinance,

or by reason that the discriminator knows the person victimized or the third person, as the case may be, intends to do any of those things, or suspects the person victimized or the third person, as the case may be, has done, or intends to do, any of them.

(2) Subsection (1) shall not apply to treatment of a person by reason of any allegation made by him if the allegation was false and not made in good faith.

(3) For the purposes of subsection (1), a provision of Part III or IV framed with reference to discrimination against, or sexual harassment of, women shall be treated as applying equally to the treatment of men, and for that purpose shall have effect with such modifications as are necessary.

10. Comparison of cases under sections 5 (1), 7 (1) and 8

A comparison of the cases of persons -

(a) of different sex under section 5 (1);

(b) of different marital status under section 7 (1);

(c) who are pregnant and not pregnant under section 8,

shall be such that the relevant circumstances in the one case are the same, or not materially different, in the other."

3. The Ordinance further provides that if an act is committed for two or more reasons and one of the reasons is the sex, marital status or pregnancy of a person, then for the purpose of the Ordinance, the act shall be taken to have been done for the reasons of the sex, marital status or pregnancy of that person.

Reservation

4. The Government of the People's Republic of China declared on 10 June 1997 that it would assume responsibility for the international rights and obligations arising from the application of the Convention to the Hong Kong Special Administrative Region. The Chinese Government understands, on behalf of the HKSAR, that the main purpose of the Convention, in the light of the definition contained in article 1, is to be the reduction, in accordance with its terms, of discrimination against women, and does not therefore regard the Convention as imposing any requirement upon the HKSAR to repeal or modify any of its existing laws, regulations, customs or practices which provide for women to be treated more favourably than men, whether temporarily or in the longer term. The obligations undertaken by the Chinese Government on behalf of the HKSAR under article 4, paragraph 1, and other provisions of the Convention are to be construed accordingly. In the light of the definition contained in article 1, none of the Chinese Government's obligations under the Convention shall be treated as extending to the affairs of religious denominations or orders in the HKSAR.

Article 2. Obligations of States Parties

The Sex Discrimination Ordinance

5. The Sex Discrimination Ordinance was enacted in July 1995. The entire Ordinance came into force in December 1996. The Ordinance renders unlawful discrimination on the grounds of sex, marital status or pregnancy in specified areas of activity including employment, education, provisions of goods, facilities or services, disposal or management of premises, eligibility to vote for and to be elected or appointed to advisory bodies, activities of clubs, and activities of Government in parts III and IV of the Ordinance. Part IV of the Ordinance outlaws sexual harassment and part V makes it unlawful to apply any discriminatory practices and to publish or cause to publish any discriminatory advertisements.

6. The provisions of the Ordinance bind the HKSAR Government and the public sector bodies in the same way that they apply to those in the private sector. It is unlawful for the Government to discriminate against a woman in the performance of its function or in the exercise of its powers.

7. The Ordinance confers jurisdiction on the District Court to hear claims of unlawful sex discrimination and sexual harassment in the same way as other claims in tort. To enhance accessibility, these cases will be assigned to a designated court. Persons may be permitted to address the court in the proceedings even though they are not legally qualified, and the Chinese language may be used.

8. All remedies obtainable in the Court of First Instance of the High Court shall be obtainable in proceedings brought in the District Court. The District Court may also grant an injunction.

9. Legislation against sex discrimination should not be so onerous as to impose an undue financial burden or unreasonably restrict individual freedom. Exceptions are therefore provided under the Ordinance to avoid imposing undue financial burdens. These include cases where, in single-sex dormitory accommodation, it would be unreasonable to require the accommodation to be altered to provide sleeping quarters and sanitary facilities for both sexes. Exceptions to avoid unreasonably restricting individual freedom include cases where non-profit-making voluntary organizations are allowed to restrict membership to persons of one sex. Exceptions are also provided for services rendered by charitable organizations.

10. In employment matters, exceptions are provided under the Ordinance to allow for situations where being of a particular sex is a genuine occupational qualification. With regard to discrimination on the ground of marital status, it is not unlawful for an employer to provide different levels of specified benefits or allowances to persons with different marital status. This allows, for example, an employer to provide a higher level of housing allowance to employees who are married.

The Equal Opportunities Commission

11. The Sex Discrimination Ordinance also provides for the establishment of an independent statutory body, the Equal Opportunities Commission (EOC), which, among other things, is responsible for eliminating sex discrimination and promoting equality of opportunity between men and women. The Commission, formally established on 20 May 1996, started full operation on 20 September 1996.

12. The Commission's functions include conducting formal investigations, handling complaints, encouraging conciliation between the parties to a dispute, providing assistance to aggrieved persons, and undertaking public education and research programmes to promote equal opportunities in the community. The Commission is also empowered to issue codes of practice to provide practical guidelines to facilitate the public's compliance with the Sex Discrimination Ordinance. Additionally, the Commission also plays the role of keeping under review the working of the Ordinance.

13. As at 30 June 1998, the EOC had received 1,300 enquiries and 355 complaints under the Ordinance. A total of 211 complaints have been successfully resolved or conciliated. The Commission has also initiated court action pursuant to the Ordinance against newspapers for publishing sex discriminatory advertisements. Under the Ordinance, the EOC is required to submit an annual report on its activities to the Chief Secretary for Administration, who shall cause the same to be tabled in the Legislative Council.

Changes in the law

14. Actions are being taken by the HKSAR Government to review legislation which provides for differential treatment for women and men. Where appropriate, legislative amendments have been or will be procured to remove the differential treatment. These include the following:

(a) Amendments were made to the Inland Revenue Ordinance to provide for separate taxation for married women. Hitherto, married couples were jointly assessed. The Inland Revenue (Amendment) Ordinance of 1989 provides that husbands and wives should be individually responsible for all aspects of their personal taxation affairs;

(b) Action has been taken to amend the discriminatory provisions in respect of giving consent for marriages under the Marriage Ordinance. Previously, under the Ordinance, the father's consent was required for the marriage of a person between the ages of 16 and 21. The mother's consent was sought only when the father was either dead or insane. The Ordinance was amended in 1997 to provide that consent for marriage can be given by either the mother or the father of the under-aged person;

(c) The Matrimonial Causes (Amendments) Ordinance of 1995 provides for the rectification of certain gender-biased provisions in the Matrimonial Causes Ordinance in the following areas: grounds for jurisdiction in matrimonial proceedings; petition for divorce citing adultery; and the definition of dependent children;

(d) The Marriage and Children (Miscellaneous Amendments) Ordinance, which was enacted in June 1997, removed the differential treatment of male and female under the Separation and Maintenance Orders Ordinance;

(e) Amendments were made to the Bankruptcy Ordinance and the Companies (Winding Up) Rules to rectify gender-biased discrepancies in their provisions. Legislative amendments are to be introduced to remove the differential treatment between male and female under the Partnership Ordinance; and

(f) Gender-biased provisions in the Merchant Shipping Ordinance were repealed in September 1996. Legislative amendments are also to be introduced to extend the legal obligations to both genders under the Merchant Shipping Ordinance, the Merchant Shipping (Seafarers) Ordinance as well as the Shipping and Port Control Ordinance.

Family Status Discrimination Ordinance

15. The Family Status Discrimination Ordinance was enacted in June 1997 and came into operation in November of the same year. This piece of legislation renders it unlawful to discriminate against a person who has family status in specified areas of activity similar to those covered under the Sex Discrimination Ordinance. This Ordinance provides protection to those who have responsibility for the care of an immediate family member. As in the case of the Sex Discrimination Ordinance, the EOC is responsible for the enforcement and implementation of the Family Status Discrimination Ordinance. As at 30 June 1998, the EOC has received a total of 164 enquiries and five complaints relating to this Ordinance, of which one complaint has been successfully resolved.

Article 3. Appropriate measures

Legal basis for the elimination of discrimination

16. The provisions of the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights have been applied to Hong Kong since 1976. Both Covenants require States parties to ensure the equal right of men and women to the enjoyment of the rights set forth therein.

17. The Joint Declaration guarantees that the provisions of the two Covenants as applied to Hong Kong shall remain in force after 30 June 1997. This is also provided for in article 39 of the Basic Law.

18. The HKSAR Government is fully committed to the objectives of the two Covenants and seeks to implement them through existing legislation and policies. In addition, the Hong Kong Bill of Rights Ordinance, enacted in 1991, binds the Government and all public authorities and any person acting on behalf of the Government or a public authority. Article 1 of the Hong Kong Bill of Rights provides that the rights recognized in the Bill of Rights shall be enjoyed without distinction of any kind, including sex. Article 22 of the Hong Kong Bill of Rights provides that all people are equal before the law and are entitled without any discrimination to the equal protection of the law.

Coordination efforts to implement the Convention

19. The Convention touches on a wide range of policy areas - education, employment, health, welfare and security, to name a few. Its implementation requires the efforts of literally all policy bureaux in the HKSAR Government. Some commentators have suggested that a Women's Commission should be set up to provide a focal point to address matters of concern for women. The Government considers such action to be neither necessary nor desirable, since at the top level of the Administration, the Policy Groups chaired by the Chief Secretary for Administration and attended by senior representatives of the bureaux concerned already provide the necessary coordination among the various bureaux. In addition, the Equal Opportunities Commission, which is an independent statutory body, is in place to promote equal opportunities between the two genders and implement the Sex Discrimination Ordinance (see paras. 5-13 above).

Article 4. Temporary special measures

Special measures provided for under the Sex Discrimination Ordinance

20. HKSAR fully recognizes that special measures designed to achieve equality for, or to meet special needs of, pregnant women or persons of a particular sex or marital status should not be considered as discriminatory. This is reflected in the general exception provisions in the Sex Discrimination Ordinance, which read:

"PART VI

GENERAL EXCEPTIONS FROM PARTS III TO V

48. Special measures

Nothing in Part III, IV or V shall render unlawful an act that is reasonably intended to -

(a) ensure that persons of a particular sex or marital status, or who are pregnant, have equal opportunities with other persons in circumstances in relation to which a provision is made by this Ordinance;

(b) afford persons of a particular sex or marital status, or who are pregnant, goods or access to services, facilities or opportunities to meet their special needs in relation to -

(i) employment, education, clubs or sport; or

(ii) the provision of premises, goods, services or facilities;

(c) afford persons of a particular sex or marital status, or who are pregnant, grants, benefits or programmes, whether direct or indirect, to meet their special needs in relation to -

(i) employment, education, clubs or sport; or

(ii) the provision of premises, goods, services or facilities."

Maternity protection

21. Part VI of the Sex Discrimination Ordinance provides for exceptions to actions taken for the purposes of protection of women. Any act committed by a person in compliance with an existing statutory provision that deals with the protection of women in relation to pregnancy, maternity or other circumstances giving rise to risks specifically affecting women will not be unlawful.

22. Measures adopted to protect maternity are referred to in paragraphs 95-97 and 114-115 below, under article 11.

Article 5. Stereotyping and prejudices

The female working population

23. In general, along with the expansion in education and training opportunities, there has been a steady rise in the proportion of women at the higher end of the occupational hierarchy (see para. 102 below and appendix C). Likewise women have enjoyed a wider choice of occupations in recent years. More women have taken up occupations which used to have a relatively high proportion of male workers. For instance, in 1996 the proportion of women working as engineers, railway engine and motor vehicle drivers, and extraction and building trades workers rose to 7 per cent, 5 per cent and 4 per cent respectively. These figures were higher than the corresponding figures of 4 per cent, 2 per cent and 2 per cent in 1991. Over the past decade, employment opportunities for married women have been rising steadily. In 1996, married women accounted for 21 per cent of the employed population, up from 18 per cent in 1986.

Education

Equal Opportunities Commission

24. Since commencing full operation in September 1996, the Equal Opportunities Commission (EOC) has placed much emphasis in the promotion of sex equality through its public education programmes. These programmes include the following:

(a) About 65,000 copies of the Code of Practice on Employment, which provides practical guidelines to facilitate the public's compliance with the Sex Discrimination Ordinance, have been distributed to the public. The new Code of Practice on Employment under the Family Status Discrimination Ordinance has also been widely distributed in the community;

(b) An EOC homepage has been set up on the Internet for access by the general public;

(c) The production of Announcement of Public Interests and the launching of Poster Advertisements Campaigns. The EOC has also published its quarterly newsletters and issued 25,000 promotional leaflets to promote the work of the Commission and equal opportunities in general;

(d) A large-scale conference on Equal Opportunities Legislation and Educational Institutes was held in early 1997 and was attended by 300 participants. An experience-sharing session on discriminatory advertisements for publishers was also held. In addition, training modules on sexual harassment and equal opportunities for men and women in the workplace were produced;

(e) A baseline survey on public perceptions of equal opportunities (gender) was completed. A statistical analysis of census data to provide objective indicators on equal opportunities and a feasibility study on equal pay for work of equal value were also undertaken;

(f) A pilot funding programme to encourage community organizations to carry out projects in promoting equal opportunities was launched. The Commission also participated in a number of exhibitions, including the Civic Education Exhibition, Education and Careers ExPo to promote equal opportunities;

(g) A television docudrama series on equal opportunities was launched in January and February 1998.

Committee on the Promotion of Civic Education

25. The Committee on the Promotion of Civic Education (CPCE), an advisory body established to promote civic awareness, has made the theme of equal opportunities a major focus of its work over the past three years. A list of the Committee's activities in this area is as below -

(a) A television spot in the format of an "Announcement of the Public Interest";

(b) Roving exhibitions and outdoor stage shows;

(c) A human rights teaching kit for children comprising activity plans and a handbook for parents. The kit incorporates the concept of gender equality (released in phases between early 1996 and mid-1997);

(d) Sponsorship of a manual in Chinese entitled "Assessing the status of women: Guidelines on reporting under the Convention on the Elimination of All Forms of Discrimination against Women", published by the Faculty of Law of the University of Hong Kong. The English version was produced by International Women's Rights Action Watch in 1996;

(e) Sponsorship of projects organized by voluntary agencies and community organizations. Between 1995-1996 and 1998-1999, CPCE sponsored 56 projects on equal opportunities of which 19 focused specifically on gender equality;

(f) Two videos, one for children and the other for adolescents; and

(g) Four comic books for adolescents (to be released in late 1998).

Government publications

26. The Government has made the following efforts to promote the Sex Discrimination Ordinance and the Convention:

(a) After the enactment of the Sex Discrimination Ordinance, publications in the forms of booklets, comic books and CD Roms were distributed to the public;

(b) Upon the extension of the Convention to HKSAR, the Government published 12,000 copies of the text of the Convention for distribution to the public and posted the Convention on the Internet;

(c) Promotional booklets and souvenirs in varied forms on the Convention have been distributed to the public to stimulate public awareness of the Convention.

Pornography

27. Regulation of pornographic materials falls under the ambit of the Control of Obscene and Indecent Articles Ordinance, which controls articles that contain obscene or indecent materials (i.e. materials that are violent, depraved or repulsive). The Film Censorship Ordinance regulates the exhibition and publication of films. Under this Ordinance, films are classified by reference to certain standards. These include whether the films portray, depict or treat sexuality or indecent or offensive language or behaviour, and whether the films denigrate or insult any particular class of the public by reference to the sex of the members of that class. The Codes of Practice issued by the Broadcasting Authority prohibits the broadcast of any matter which is indecent, obscene, or of bad taste which is not ordinarily acceptable to the viewers. The relevant Codes of Practi e on programme and advertising standards also reflect the taste and decency standards acceptable to the community, to be observed by the broadcaster. The Broadcasting Authority Ordinance provides for the issuing of Codes of Practice for satellite and sound broadcasting, while the Television Ordinance provides for the issuing of Codes of Practice for other forms of television broadcasting (commercial television, subscription television and programme services).

Protection of women from violence

Legislation protecting women from violence

28. At present, there are a number of laws which provide protection to women from violence. The major ones are the Crimes Ordinance, which deals with sexual

and related offences among other things, and the Offences Against the Person Ordinance, which among other things, deals with homicide, assaults, forcible taking or detention of persons and unlawful abortion.

29. The Domestic Violence Ordinance was also enacted to deal specifically with domestic violence. Under this Ordinance, the court may grant injunctions on application by a party to a marriage to restrain the other party from molesting the applicant or exclude the other party from a specified area which may include the matrimonial home.

30. The Crimes Ordinance was also amended to increase penalties for certain sexual and related offences. In particular, the amendments raised the maximum imprisonment term for incest with women between the age of 13 to 16 from 7 to 20 years, as this group of women is more vulnerable.

Special training of the Police Force

31. Training is provided to Police officers at various stages of their career to prepare them to handle cases of domestic violence. This training seeks to ensure that officers dealing with such cases are equipped to offer compassionate and constructive advice and to act positively and professionally at all times.

32. The Police Force has drawn up guidelines for handling domestic violence cases. The Force Procedures in Handling Domestic Violence Incidents sets out the role and responsibilities of Police officers attending to incidents of domestic violence as well as the arrangement for making referrals to places of refuge.

33. In tackling wife-battering cases, the Police Force has enhanced its liaison with relevant government departments, non-governmental organizations and women's groups to strengthen the training for front-line officers in crisis intervention and understanding the trauma and psychology of victims. For example, Harmony House, a non-governmental organization which provides temporary shelter for victims of spouse-battering, was invited to conduct awareness training for front-line police officers. More than 1,600 officers attended the training last year. A training video on the new Police procedures has been produced and is used by each Police district during training sessions. The Multidisciplinary Guidelines on the Handling of Battered Spouses Cases, which were drawn up by the Working Group on Battered Spouses chaired by the Director of Social Welfare, are also covered in the syllabus for new recruits at the Police Training School. For the past two years, the Police and the Education Officer of Harmony House have jointly conducted regular training sessions for Inspectorate officers.

Services offered to victims of spouse-battering

34. Wife-battering is the most prominent form of domestic violence. Statistics kept by the Social Welfare Department indicate that the number of wife-battering cases in the past few years is as follows:

Year	Number of cases
1991	204
1992	171
1993	195
1994	215
1995	249
1996	334
1997	367

35. A wide range of services is offered by the HKSAR Government to victims of spouse-battering. These include:

(a) Medical service: prompt medical treatment at the accident and emergency departments of public hospitals is given to victims of abuse. With the consent of the victims, their cases are referred to medical social workers for investigation and counselling;

(b) Casework and counselling: there are 65 Family Services Centres run by the Social Welfare Department and non-governmental organizations throughout the Region. They offer assistance to families with relationship problems, including domestic violence. Counselling and other assistance such as financial relief, child-care services, compassionate rehousing, and psychological assessment, are provided to these families according to their needs. As far as possible, caseworkers try to reconcile victims and their spouses. The Government has secured resources to provide additional caseworkers to strengthen services for all welfare clients including victims of domestic violence. The Government has also provided funding for a total of 44 clinical psychologists to facilitate the provision of psychological treatment for victims of domestic violence;

(c) Hotline service: the Social Welfare Department and a number of non-governmental organizations run hotline services for persons requiring immediate counselling or information;

(d) Temporary shelters: three shelters operate round the clock to provide temporary accommodation for battered wives and women in need. These include the Wai On Home for Women, run by the Social Welfare Department, and Harmony House and Serene Court, run by non-governmental organizations with subventions from the Social Welfare Department. The three shelters provide 120 places for needy women and young girls. All of them receive direct applications and referrals from the Police, hospital staff and social workers;

(e) Child-care services: comprehensive child-care services are provided through child-care centres and after-school care programmes. Child-care centres consist of day and residential crèches for children aged from birth to under 2 years, day nurseries and residential nurseries for children aged 2 to under-6,

and day nursery-cum-crèche centres for children aged from birth to under-6. As at 31 May 1998, there were a total of 43,981 child-care centres places in government, government-aided, non-profit and private child-care centres. The After-School Care Programme provides child care, meals, homework tutoring, guidance, counselling and play activities for primary students aged between 6 and 12. There are about 6,100 After-School Care Programme places provided on a fee-charging, non-profit and self-financing basis by non-governmental organizations;

(f) Family life education: operating on the assumption that prevention is better than cure, the Government's 79 Family Life Education workers conduct programmes throughout the year to promote harmonious marital relationships. They also conduct public-awareness exercises to bring their services to the attention of married couples and couples about to get married. Additionally, the Family Care Demonstration and Resource Centre organizes training programmes in practical home-management skills and handling household matters and family relationships. There are also 22 Family Activity and Resource Centres in different parts of the Region. These provide pleasant drop-in places for families to seek guidance on their problems;

(g) Housing assistance: conditional tenancy in public housing estates can be arranged under the Compassionate Rehousing Category for battered spouses who meet the eligibility criteria. This aims to enable separated people to move away from their spouses while awaiting a divorce;

(h) Financial assistance, such as Comprehensive Social Security Assistance (CSSA) and Charitable Trust Funds: individuals or families in need of financial assistance can apply for CSSA, which is administered by the Social Welfare Department. In addition, there are various types of charitable trust funds which aim at providing direct and temporary grants for needy individuals or families in special and emergency situations for which the other financial assistance and CSSA may not be applicable or readily available;

(i) Legal aid: victims who feel that their safety is at risk may seek court injunctions against their spouses or cohabitees under the Domestic Violence Ordinance or under the inherent jurisdiction of the Court. Legal aid is available to eligible applicants to take proceedings for divorce, child custody, or ancillary relief. Victims who are in need of legal assistance are advised to apply to the Legal Aid Department for legal aid. Victims will be given a referral card which contains their report number and the telephone number of the Police station concerned to facilitate subsequent enquiries by Legal Aid Counsel;

(j) An interdisciplinary Working Group on Battered Spouses, chaired by the Director of Social Welfare and comprising representatives from government departments, the Hospital Authority and welfare agencies, was formed to tackle the problem of battered spouses. The Working Group aims to strengthen coordination between government departments and non-governmental organizations. Apart from drawing up a set of multidisciplinary guidelines for working with victims of domestic violence, the working group has introduced a series of measures to educate the public on the destructive forces of domestic violence and to encourage families at risk to seek early professional advice. Such

measures have included the production of posters, Television Announcements of Public Interest (TVAPI) and Radio Announcements of Public Interest (Radio API). A central information system for collecting data on battered-spouse cases handled by government departments, the Hospital Authority and non-governmental organizations was also set up in April 1997 to better gauge the statistics on battered-spouse cases.

Other measures

36. There have been amendments to the legislation which treats men as the head of the family. One example is the amendments to the Marriage Ordinance which provide that the written consent for marriage can be given by either the mother or father of a person who is between the ages of 16 and 21.

37. The Family Status Discrimination Ordinance protects from discrimination persons who have responsibility for the care of an immediate family member.

38. Measures have been taken to attract women to join disciplinary forces which were traditionally dominated by males. For instance, all women recruited to the Police Force after January 1995 are obliged to undergo firearms training and, when qualified, carry firearms on duty in exactly the same way as men do, whereas before that, women could volunteer to be trained for carrying arms. A total of 405 women officers have been recruited since January 1995. Altogether 616 serving women officers have volunteered to receive firearms training; of these, 515 are now qualified to carry firearms on duty.

39. Measures adopted on the educational front to eliminate gender stereotypes are referred to in the section dealing with article 10, below.

Article 6. Exploitation of women

Prostitution and traffic in women

Crimes Ordinance

40. The Crimes Ordinance provides for several offences which are designed to prevent the exploitation of persons for sexual purposes. These include trafficking in people, causing prostitution and exercising control over prostitutes. These offences are not gender-specific and may be committed by men or women against either sex.

41. The Crimes Ordinance provides that any person who unlawfully takes an unmarried girl under the age of 16 years out of the possession of her parent or guardian is liable to 10 years' imprisonment. The Ordinance also provides that any person who unlawfully abducts an unmarried girl under the age of 18 years with the intention that she shall have unlawful sexual intercourse with men or with a particular man is liable to seven years' imprisonment. Bringing a person into or taking a person out of the HKSAR for the purpose of prostitution and keeping a vice establishment are also considered offences under the Ordinance. The offence of "keeping a vice establishment" is intended to prevent the use of premises by two or more prostitutes by targeting the keeper of the premises. This helps to combat the exploitation of women by organized crime elements.

Statistics for the offences mentioned above and their maximum penalties are given in appendix D.

Assistance to prostitutes

42. Prostitutes who are willing to accept help may receive counselling and welfare assistance provided by the 65 Family Services Centres. Assistance such as financial relief, psychological services, child-care services, vocational training and employment services will also be arranged for them to help tide them over in any difficulties that they may encounter when giving up prostitution.

Application of laws against violence to prostitutes

43. Laws relating to violence against women, for example, rape, buggery, indecent assault and other assaults, apply equally to prostitutes as to any other women in society. The fact that the victim is a prostitute is immaterial.

Article 7. Equality in political and public life at the national level

Bill of Rights

44. Pursuant to article 21 of the Hong Kong Bill of Rights, every permanent resident shall have the right and the opportunity, without distinction of any kind including sex, and without unreasonable restrictions, to take part in the conduct of public affairs, directly or through freely chosen representatives; to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot; and to have access, on general terms of equality, to public service in Hong Kong.

Women in the Legislative Council and district organizations

45. In the HKSAR, women and men enjoy the same right to vote and to stand for election. The right is safeguarded in the Basic Law, the constitutional document of the Region, which stipulates that permanent residents of the HKSAR shall have the right to vote and the right to stand for election in accordance with law. A person's sex is not a criterion governing his/her qualification as an elector or a candidate in an election of the HKSAR.

46. In the 1998 Legislative Council election, there were 1.33 million registered female electors on the General Electoral Roll, representing 47.7 per cent of all the registered electors in Hong Kong. Furthermore, 48.1 per cent of the 1.49 million voters who cast their votes in the election were female. In the last round of Municipal Council elections (1995) and District Boards elections (1994), the percentages of female voters were 47.3 and 48.9 respectively.

47. Women in the HKSAR are also free to stand as candidates in elections to the Legislative Council and district organizations. In the 1998 Legislative Council election, 24 of the 166 candidates were women. Ten of them were elected, forming 16 per cent of the membership of the 60-member legislature. There were 21 women among the 135 candidates for the most recent Municipal Council

elections (1995) and 97 women among the 757 candidates in the District Boards elections in 1994. The percentages of female members among the elected candidates in these representative institutions were both 10 per cent.

48. Before the first elections for district organizations could be held in Hong Kong two Provisional Municipal Councils and 18 Provisional District Boards were established. The percentages of female members in those bodies were 12 per cent and 11 per cent respectively.

49. The system of the HKSAR Government is covered in the general profile section (paras. 4-21 in Part I).

Women in the Executive Council

50. In 1981, there was only one female member in the Executive Council. Today, four out of 14 members of the Executive Council are female.

51. The structure and functions of the Executive Council are covered in the general profile section (paras. 8 and 9 in Part I).

Women in rural elections

52. There are three levels of election in the villages of the New Territories. The election of village representatives is the first level. In the past, village representatives were elected by a process which had regard only to heads of households. Heads of households, regardless of sex, had the right to vote and to be elected as village representatives. However, in practice, most heads of households are men, and there had been criticism that this process violated the equality of the sexes. This system has undergone considerable changes. It is now the policy of the Heung Yee Kuk, the Government's statutory adviser on New Territories matters, that village representatives should be elected on the basis of one-person-one-vote, equal voting rights for men and women, and a fixed four-year term. Some 660 villages (94 per cent) are already adopting this system, with others expected to follow in the near future. The Sex Discrimination Ordinance ensures that the Government shall not approve village representatives who have been elected or otherwise chosen by a procedure in which women have not been able to participate on equal terms with men, whether as candidates, nominees, electors or in some other relevant capacity. The Government will continue to promote compliance of the new rules in the remaining villages.

53. There are about 700 villages in the New Territories with about 1,000 village representatives. Village representatives make up the 27 Rural Committees which comprise the second level of the rural electoral system. The General Assembly of a Rural Committee includes all the village representatives and, where appropriate, Kaifong[4] and fishermen's representatives in that particular Committee's area. The election of Rural Committee Chairman is

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[4] Note: The Cantonese word "Kaifong" literally means people living in a particular street. In common usage it refers to people living in the same neighbourhood.

carried out on the one-person-one-vote basis. The Chairmen and Vice-Chairmen of the Rural Committees are ex officio councillors of the Heung Yee Kuk, which is the third level of the rural electoral system. Neither at the second nor the third level is there any differentiation made between men and women. Currently, there are 10 women serving as village representatives. Two women are serving as Executive Committee members of the Rural Committees, whereas five are Councillors of the Heung Yee Kuk.

54. The rural representative system is linked to the structure of the Legislative Council and district organizations. At the most local level, the 27 Rural Committee Chairmen are ex officio members of the New Territories Provisional District Boards. At the regional level, the Chairman and the two Vice-Chairmen of the Heung Yee Kuk are ex officio members of the Provisional Regional Council. The Heung Yee Kuk also comprises the rural functional constituency which returns one seat to the Legislative Council. Again there is no differentiation in this structure between men and women.

Women in advisory and statutory bodies

55. The network of government advisory boards and committees is a distinctive feature of Hong Kong's system of Government. These bodies are established for the purpose of advising the Government on a broad spectrum of issues. These range from fundamental livelihood issues, such as housing, education, social welfare, medical care, and transport, to highly specialized and technical subjects, such as the operation of the securities and futures markets and radiological protection. Some of these advisory bodies are local committees, dealing essentially with affairs of particular districts or neighbourhoods, such as the District Boards, Area Committees and District Fight Crime Committees. There are also a host of statutory bodies which have been set up to manage publicly owned corporations or public facilities, such as the Mass Transit Railway Corporation, the Hospital Authority and the Airport Authority. There are at present over 350 of these bodies with a membership of over 3,500, comprising both government officials and members of the public. Some individuals serve on more than one body.

56. Members of advisory and statutory bodies are appointed on their own merits. The objective is to secure the services of the best persons available, taking into account their abilities, expertise, experience, integrity and commitment to public service. Gender is not a relevant consideration in making appointments.

Women in public offices

Government recruitment policy

57. The HKSAR Civil Service adopts a policy of equal opportunities in employment. There is no discrimination between male and female employees. In the past, a few grades in the Civil Service were not open to female candidates. This has been changed following a review conducted in 1992; the departments concerned have taken steps to modify their accommodation and provide facilities so as to allow employment of candidates of both genders. Recruitment practices have also been revised to give equal opportunities to all applicants. At

present, there is no longer any gender requirement in Civil Service recruitment, and candidates of both genders are considered on equal terms.

Statistics on women in public offices

58. The number of women directorate officers in government service has increased significantly from 129 in 1992 to 244 by the end of 1997. Female civil servants now make up 19 per cent of directorate officers. This is 89 per cent higher than five years ago. Currently, the highest ranking official in the HKSAR Civil Service, the Chief Secretary for Administration, is a woman.

Article 8. Equality in political and public life at the international level

Officers representing the Government at the international level

59. Officers at Bureau Secretary and directorate levels as well as those posted at overseas Hong Kong Economic and Trade Offices often represent HKSAR at the international level. Posts in the Civil Service are filled by the best suitable officer, irrespective of sex. Officers are selected purely on the basis of relevance to their work and the exigencies of the service. Female officers are given the same consideration as male officers. At present, females make up 19 per cent of directorate officers, while of the 23 Principal Officials, six are female.

Article 9. Equality in nationality laws

Acquisition and transmission of nationality

60. The law in force in HKSAR governing nationality is the Nationality Act of the People's Republic of China. Under this law, nationality may be acquired by women on the same terms as by men.

Immigration Ordinance

61. The Immigration Ordinance provides for: entitlement to or acquisition of the right of abode in the HKSAR by Chinese and non-Chinese nationals who satisfy certain conditions; the granting of conditions of stay to temporary residents; and the issue of certain travel documents. Under the Ordinance, men and women may acquire immigration status by virtue of their connection with a parent. The status can be derived from a person's connection with either his/her father or his/her mother, if that person is a legitimate child. If the person is an illegitimate child, he/she can only derive immigration status by virtue of his/her connection with his/her mother. This provision was held to be inconsistent with article 24(3) of the Basic Law by the Court of Appeal in Cheung Lai Wah v The Director of Immigration (CACV 203/1997). The Director of Immigration has lodged an appeal to the Court of Final Appeal.

Article 10. Equality in education

The Sex Discrimination Ordinance

62. The HKSAR Government is committed to promoting equal opportunities in education. The Sex Discrimination Ordinance has provided the legislative framework for this by rendering discrimination in respect of admissions or the treatment of students unlawful. The Ordinance provides that:

"PART IV

DISCRIMINATION AND SEXUAL HARASSMENT IN OTHER FIELDS

Education

25. Discrimination by responsible bodies for educational establishments

It is unlawful for the responsible body for an educational establishment to discriminate against a woman -

(a) in the terms on which it offers to admit her to the establishment as a student;

(b) by refusing or deliberately omitting to accept an application for her admission to the establishment as a student; or

(c) where she is a student of the establishment -

(i) in the way it affords her access to any benefits, facilities or services, or by refusing or deliberately omitting to afford her access to them; or

(ii) by excluding her from the establishment or subjecting her to any other detriment."

63. In addition, section 28 of the Ordinance provides for the protection of women's right to obtain or use goods, facilities or services, including those related to education, entertainment, recreation or refreshment. The section has been reproduced in paragraph 119 below.

Participation of girls in formal education

Nine-year universal basic education

64. Nine-year universal basic education is available in the HKSAR. All children aged 6 to 15, regardless of their sex, are entitled to nine years of free and universal education. If a school child is absent from school for seven days and is suspected to be a drop-out, the head of the school is required to report the case immediately to the Education Department for investigation and follow-up action. The parents or guardians are contacted and, if necessary, a home visit is arranged to find out the reason(s) for the absence. The Education

Ordinance empowers the Director of Education to enforce school attendance if it appears that a child is not attending primary or secondary school without a reasonable excuse. Failure without reasonable excuse to comply with the attendance order issued by the Director of Education may amount to an offence. Leaflets are distributed to parents to inform them of the requirement to ensure that children aged 6 to 15 attend schools. Statistics on the drop-out rates for male and female students are contained in appendix E.

65. The majority of schools are co-educational. The number of single-sex schools for boys and girls is largely the same, although there are more girls' schools at the primary level (see appendix F). Entry to these schools is by parental choice.

Equality in the school curriculum

66. There is no gender discrimination in the school curriculum. The Education Department is conscious of the need not to condition children to gender-biased aspirations within the education system. The Department adopts a policy of strict equality for students of both sexes. Schools are encouraged to offer all subjects in the curriculum to both female and male students. The policy of strict equality applies also in physical education. Physical education classes are offered to both boys and girls in all secondary and primary schools. Girls are also offered the same opportunities as boys to take part in inter-school, inter-port and international school sports competitions. The relevant figures are set out in appendix G.

67. In the course of developing the school curriculum or curriculum support materials and in reviewing textbooks, the Education Department gives due emphasis to equality of sexes and makes every attempt to avoid sexual stereotyping. Equality between the two sexes and respect for each other's needs are among the core elements of some existing school syllabuses in areas such as social studies, religious studies and liberal studies at the secondary level and general studies at the primary level. In addition, the Education Department has issued guidelines on sex and civic education which suggest the inclusion of "equality of sexes" and "equality and discrimination" as topics for discussion in activities such as class-teacher periods, school assemblies and guidance and counselling sessions.

Further and higher education

68. Hong Kong's tertiary education institutions have adopted a policy of equality for students of both sexes. The admission criteria are based mainly on academic achievements. The qualifications for admission are the same for women and men.

69. Recent statistics on the number of first degree graduates of programmes funded by the University Grants Committee (UGC) indicate a male dominance in engineering and science faculties. Female students have a stronger presence in the arts and social science fields. It is worth noting, however, that there is no longer a male dominance in the faculty of medicine. Detailed statistics are set out in appendix H.

Vocational training

70. Vocational institutions have adopted a policy of equality for students of both sexes. The admission criteria for training centre courses offered by the Vocational Training Council are based on level of education and aptitude, irrespective of gender.

71. Women's rights to vocational training are provided for in the Sex Discrimination Ordinance. This is discussed in paragraphs 84 and 85 below, under article 11.

72. Vocational training courses are being provided in 18 different disciplines. Those disciplines attracting the most female trainees include banking, insurance, the hotel industry and the wholesale and retail trades. Only a small percentage of female trainees have taken up courses in the electrical and automobile industries, welding and related trades, gas industry or the machine shop and metalworking industry. Detailed figures on vocational training in the Region are contained in appendix I.

Elimination of gender stereotyping

Sex education

73. In subjects such as general studies at primary level, social studies, religious studies and liberal studies at secondary level, as well as in cross-curricular activities like civic education and sex education, issues such as sex roles, the responsibility of males and females and sex equality are incorporated into the curriculum with a view to fostering a willingness to accept members of the opposite sex as equals in social, economic and political affairs. In the revised Guidelines on Sex Education in Schools, such concepts are being reaffirmed, with behavioural objectives including: avoidance of gender biases and stereotyping, avoidance of behaviour that exhibits prejudice and bigotry, and engaging in sexual relationships that are characterized by honesty, equality and responsibility. Basic values such as equality, integrity, respect, commitment and responsibility, and the development of non-judgmental and non-discriminatory attitudes towards other people in a pluralistic society are stressed. Regarding the suggested curriculum, students are encouraged to respect the other sex; to explore the social and personal values placed on gender roles; to have an awareness of the impacts of sexual stereotyping; to think about the roles and responsibilities of the males and females at home and society from the traditional perspective as well as from the standpoint of changing needs.

Textbook review

74. In the Hong Kong Institute of Education, the question of gender stereotypes is discussed to ensure that student teachers and in-service teachers are aware of the need to maintain a balanced view. The Institute often organizes seminars and workshops to remind its students to help their school students to develop respect for the opposite sex. They are also reminded to take great care when selecting teaching materials, cases, examples and illustrations from textbooks and reference materials in order to avoid prejudice and gender stereotyping in

teaching. Furthermore, textbook publishers and reviewers are encouraged to pay special attention to the content of textbooks to avoid prejudices and gender stereotyping.

Scholarships and study grants/loans

75. The Government Student Financial Assistance Agency provides financial assistance and scholarships to students from kindergarten to tertiary levels. Eligibility is based on the financial need of applicants and has nothing to do with gender. Its primary aim is to ensure that no student is denied access to education because of a lack of means. For kindergarten to secondary school students, the major financial assistance schemes are the Kindergarten Fee Remission Scheme, the School Textbook Assistance Scheme, the Senior Secondary Fee Remission Scheme and the Student Travel Subsidy Scheme. Through these schemes, the HKSAR Government helps those students and families with financial difficulties to pay tuition fees, buy textbooks and meet travel expenses. Tertiary students may seek assistance from the Local Student Finance Scheme in the form of grants and low-interest loans to meet their tuition fees, union fees, and academic and living expenses.

76. The American Women's Association of Hong Kong offers scholarships to secondary schools on condition that at least half of the scholarships go to female students. At the tertiary level, the Hong Kong Association of University Women offers scholarships solely for women. During the 1997/98 academic year, the Hong Kong University of Science and Technology also provided female students with a Zonta Club of Hong Kong East Scholarship for a one-year overseas study, as well as interest-free loans totalling HK$ 50,000 donated by the American Women's Association (Hong Kong) Student Loan Fund. A fellowship is also offered annually by the U.S. United Board for Christian Higher Education, for female academics who come from the Mainland to visit the University for a 10-month academic exchange.

Women in the teaching profession

77. In the teaching profession, there are more female teaching staff than male. In primary schools, 77.1 per cent of the teachers are female and 22.9 per cent are male. In secondary schools, 52.4 per cent of the teachers are female and 47.6 per cent are male. However, there are more male school principals in both primary and secondary schools. Females make up 40.8 per cent and 31.6 per cent, respectively, of the total number of principals of primary schools and secondary schools. A staff profile by grade and by sex of the higher education sector is set out in appendix J.

Article 11. Equality in employment and labour rights

Reservation

78. Under this article, a reservation has been entered in respect of the right to apply all HKSAR legislation and the rules of pension schemes affecting retirement pensions, survivors' benefits and other benefits in relation to death or retirement (including retirement on the grounds of redundancy), whether or not derived from a social security scheme. The reservation also covers the

right to apply any non-discriminatory requirement for a qualifying period of employment for the application of the provisions contained in article 11, paragraph 2.

79. The existing retirement schemes legislation, namely, the Occupational Retirement Schemes Ordinance, does not require equal terms between females and males in respect of retirement benefits. Some private occupational retirement schemes may provide different terms for females and males in areas such as eligibility for membership, contribution rates, qualifying age for normal or early retirement and formula for calculating retirement benefits. The Sex Discrimination Ordinance provides that it is unlawful for an employer to discriminate against a female employee in relation to the provision of benefits. However, this prohibition does not apply to those death or retirement provisions made for a woman before 15 October 1997 insofar as any such provision continues for that woman on and after that date.

80. A reservation as to the qualifying period of employment for the application of the provisions contained in article 11, paragraph 2, is also necessary. Under the Employment Ordinance, a pregnant employee with a continuous contract of employment, i.e. a minimum of four weeks with 18 hours in each week, would be entitled to maternity leave and protection against dismissal by her employer. To obtain maternity leave with pay, she must fulfil a qualifying period of 40 weeks' employment.

Legislation against discrimination in employment

Equal employment rights and opportunities

81. From the employers' perspective, there appears little economic rationale to deliberately turn away prospective job applicants just for the sake of sex discrimination, as this will only limit their source of manpower supply. Furthermore, through years of public education and promotion, most employers have now developed an attitude and accepted the concept of according the same employment opportunities to both men and women.

82. Generally, women enjoy the same rights as men to participate in the labour force and to hold the job of their choice. These rights are protected by legislation. Equal access to opportunities for promotion, transfer or training is ensured for both genders. Section 11(1) and 11(2) of the Sex Discrimination Ordinance provides that:

"PART III

DISCRIMINATION AND SEXUAL HARASSMENT IN EMPLOYMENT FIELD

Discrimination by employers

11. Discrimination against applicants and employees

(1) It is unlawful for a person, in relation to employment by him at an establishment in Hong Kong, to discriminate against a woman -

(a) in the arrangements he makes for the purpose of determining who should be offered that employment;

(b) in the terms on which he offers her that employment; or

(c) by refusing or deliberately omitting to offer her that employment.

(2) It is unlawful for a person, in the case of a woman employed by him at an establishment in Hong Kong, to discriminate against her -

(a) in the way he affords her access to opportunities for promotion, transfer or training, or to any other benefits, facilities or services, or by refusing or deliberately omitting to afford her access to them;

(b) in the terms of employment he affords her; or

(c) by dismissing her, or subjecting her to any other detriment."

83. The Ordinance also covers equal opportunities in relation to specified areas of employment namely, contract workers, partnerships, trade unions, qualifying bodies, vocational training, employment agencies, commission agents and government.

Qualifying bodies and vocational training

84. Equal employment opportunities presume equality in opportunities to prepare for employment through education and vocational training. The Sex Discrimination Ordinance also contains specific sections in this respect. Section 17(1) of the Ordinance provides that:

"17. Qualifying bodies

(1) It is unlawful for an authority or body which can confer an authorization or qualification which is needed for, or facilitates, engagement in a particular profession or trade to discriminate against a woman -

(a) in the terms on which it is prepared to confer on her that authorization or qualification;

(b) by refusing or deliberately omitting to grant her application for it; or

(c) by withdrawing it from her or varying the terms on which she holds it."

85. Section 18(1) of the Ordinance provides that -

"18. Persons concerned with provision of vocational training

(1) It is unlawful, in the case of a woman seeking or undergoing training which would help fit her for any employment, for any person who provides, or makes arrangements for the provision of, facilities for such training to discriminate against her -

(a) in the terms on which that person affords her access to any training course or other facilities concerned with such training;

(b) by refusing or deliberately omitting to afford her such access;

(c) by terminating her training; or

(d) by subjecting her to any other detriment during the course of her training."

Discrimination based on marital status and pregnancy

86. The Sex Discrimination Ordinance also prohibits employers from using pregnancy or marital status as a criterion in the hiring or dismissal of women employees and as a reason for according different treatments to employees. Discrimination on the grounds of marital status and pregnancy in the employment field is generally prohibited.

87. The Employment Ordinance provides protection against dismissal during pregnancy. A pregnant employee with a continuous contract of employment (i.e. a minimum of four weeks and no less than 18 hours in each week) who has given her employer notice of pregnancy would be entitled to protection against dismissal. Employers breaching the relevant provisions are liable for maternity leave pay and termination payments; they are also considered to be guilty of an offence and are liable to a fine of HK$ 50,001 to HK$ 100,000.

88. New legislative provisions were also enacted in June 1997 to strengthen protection of employees against unreasonable termination of employment and variation of employment contract. A dismissed employee is entitled to make a civil claim for remedies if the employer cannot prove that the dismissal is due to a valid reason (for example, his conduct, capability or qualifications; redundancy, or other substantial reason). Remedies may include a court order to reinstatement if agreed by both parties, award of terminal payments and award of compensation.

Sexual harassment

89. True equality in employment requires the implementation of measures to protect women from all forms of violence in the workplace. One of the most prevalent forms of violence against women in the workplace is sexual harassment of women by male co-workers. To protect women in this respect, the Sex Discrimination Ordinance renders sexual harassment unlawful.

Discrimination based on age

90. Commentators have expressed concern that women aged 30 or older have greater difficulty in finding new jobs.

91. In August 1996, the Government initiated public consultations to ascertain whether age discrimination was a problem; if so, its nature and extent; and to determine how such problems might be tackled. The public expressed divergent views. The Government accordingly considered it prudent and appropriate to address the issues through a sustained programme of publicity, public education and self-regulation. Since then, the Government has launched a series of publicity programmes, and in February 1998 it issued guidelines to help employers eliminate discrimination in the workplace. These guidelines addressed key phases of the employment process, including recruitment, advertising, employment agency services, selection and promotion. The Labour Department has also extended its conciliation services to deal with complaints relating to age discrimination in employment since 1997. However, no such complaints have been received to date.

92. In fact, statistics published by the Census and Statistics Department indicate that, in the first quarter of 1998, the unemployment rates for the 30-39 and 40-49 age groups were 2.3 per cent and 2.9 per cent respectively. The unemployment rate for workers aged 20-29 was 3.8 per cent. These figures do not suggest that the position of older workers is worse than that of younger ones. Nor are women worse off than men: the first quarter rate was 1.7 per cent for women aged 30-39 and 2.3 per cent for those aged 40-44. The corresponding rates for men in the same age groups were 2.7 per cent and 3.3 per cent respectively.

93. These indications have been affirmed by the experience of the Labour Department in placing job-seekers. Essentially, the placement rate for those aged 30 or above was much the same as the overall placement rate for al job-seekers.

Code of Practice on Employment

94. The employment-related provisions of the Sex Discrimination Ordinance came into force in December 1996. The Family Status Discrimination Ordinance became effective in November 1997. To provide practical guidance in facilitating compliance with the two Ordinances by the public (including both employers and employees), the Equal Opportunities Commission drew up two sets of Code of Practice on Employment. Failure on the part of a person to observe any of the provisions contained in the Code does not automatically render him or her liable to any proceedings. However, if a person is accused of discrimination, sexual harassment or victimization under the Sex Discrimination Ordinance or discrimination under the Family Status Discrimination Ordinance, the Code of Practice shall be admissible as evidence in a Court of Law.

Maternity leave and maternity leave pay

95. Provisions for maternity leave and maternity leave pay are set out in Part III of the Employment Ordinance, which was amended by the Government in June 1997 to improve maternity leave protection. Amendments included removing

the 26-week qualifying service requirement for entitlement to maternity leave, removing the restriction on the number of surviving children to qualify for maternity leave pay and prohibiting employers from assigning pregnant employees to heavy, hazardous or harmful work.

96. A female employee with a continuous contract of employment is entitled to a 10-week maternity leave. If the employee has worked under a continuous contract for 40 weeks or more, she is entitled to maternity leave pay. These provisions apply to all female employees working in Hong Kong, including foreign domestic helpers and other imported workers.

97. The maximum fine for unlawful dismissal of a pregnant employee under the Employment Ordinance was increased substantially in 1995 to HK$ 100,000. In 1997, six employers were convicted of such contravention and received an average fine of HK$ 7,333.

Women's participation and standing in the economy

98. Employment opportunities in Hong Kong underpinned by rapid economic growth and development have been conducive to the growing participation of women in the labour force. In 1997, 48 per cent of the female population aged 15 and older were economically active and accounted for 39 per cent of the workforce. The bulk of female labour force were in the 20-29, 30-39 and 40-49 age groups. Together they made up 35 per cent of the labour force. Detailed statistics on the labour force by sex and by age are given in appendix K.

99. Reflecting both the increasing aspiration of women to take up paid employment and the growing employment opportunities for women, the labour force participation rate for females in the 20-39 age groups has been rising steadily over the past decade. The labour force participation rate for females aged 15-19, however, over the years has fallen as more young people choose to pursue higher education and education opportunities have increased. The labour force participation rate for females aged 60 and above also fell as more people retired and the economy was characterized by increasing affluence. This shows that females, just as males, are able to share the fruits of economic growth and prosperity. Detailed statistics on the labour force participation rate by sex and by age are given in appendix L.

100. In Hong Kong, males and females have equal access to all levels of education. The nine-year universal basic education introduced since 1978 has provided opportunities for all members of society including women to acquire the knowledge and skills needed for their jobs. In 1997, 24 per cent of the female workforce had attained tertiary education, a significant increase from only 13 per cent in 1987. The corresponding figures for the male workforce were 12 per cent in 1987 and 21 per cent in 1997 (see appendix N).

101. The unemployment rate for females is also generally lower than that for males. In 1997, the unemployment rate for females and males were 2.0 per cent and 2.3 per cent respectively (see appendix N).

102. The proportion of female employees in various economic sectors has been rising gradually over the past decade (see appendix O). The increase in the

number as well as the proportion of female employees has been particularly notable in the service sectors. The proportion of female employees in managerial, administrative and professional occupations has also been rising steadily (see appendix C).

103. Along with expanding employment opportunities, females have been enjoying a rapid increase in earnings. In the fourth quarter of 1997, the median monthly employment earnings of females were 240 per cent higher than they had been in the same quarter of 1987. This was greater than the corresponding figure of 219 per cent for males, as well as the 131 per cent increase in consumer price inflation as measured by the composite CPI over the same period. The median monthly employment earnings of females amounted to 72 per cent of the corresponding figure for males in the fourth quarter of 1997, up from 68 per cent 10 years ago.

104. The question of women in public offices is dealt with in the section on articles 7 and 8 above.

Employment services provided to women

105. The Labour Department actively promotes equal opportunities in employment. It provides free employment services for all job-seekers through a network of nine job centres. In 1997, a total of 117,424 job-seekers were registered, of whom 47 per cent were female. The Job Matching Programme, introduced in April 1995, offers proactive services for the unemployed, including personalized interviews, counselling, job matching and, where appropriate, referrals to tailor-made retraining courses.

106. The Labour Department also provides employment services to job-seekers with disabilities. In 1997, a total of 3,100 job-seekers with disabilities, of whom 1,256 were female, registered for employment assistance.

107. The Government has been taking measures to eliminate discriminatory practices in recruitment. The Labour Department reviews information carefully to ensure that no restrictive requirements based on sex are included in the vacancies they receive; employers will be advised to remove such requirements.

Retraining programmes

108. The Employees Retraining Scheme provides retraining for employees affected by the economic restructuring so that they can obtain employment in another trade or a higher level job in the same trade. The programmes also include training for homemakers who have temporarily left the workforce to take care of their families, aimed at providing them with the necessary skills to rejoin the workforce. With effect from January 1997, the Scheme has been extended to cover all eligible employees, including new arrivals from the Mainland. About 82 per cent of the trainees who have gone through the retraining programmes are female. By the end of March 1998, 182,620 women out of a total of 221,522 retrainees had attended various retraining programmes which are open to applicants of both sexes. These programmes include retraining in specific job-related skills, general skills and job-search skills. Courses are organized on both a full-time and part-time basis to meet the special needs of retrainees.

Child-care facilities

109. Hong Kong's welfare policies identify the family as the most important element in society. Day-care services for young children have high priority among the family welfare services provided by the Government.

110. Generally, child-care centres are classified into three categories: crèches for those from birth to under two years old; nurseries for two to under-six years old; and special child-care centres for disabled children from two to under-six years old. These centres provide day or residential care.

111. As at 31 May 1998, there were a total of 25,983 government and aided day nursery places, 1,539 aided day crèche places and 1,179 subsidized special child-care centre places. The Government's plans to improve the child-care services include: provision of 3,266 additional aided day nursery places, 12 additional aided day crèche places and 60 additional subsidized special child-care centre places by 1998-1999. To maximize the use of available resources, more flexible child-care arrangements have been introduced. They include occasional child-care services, extended hours of services in child nurseries and promoting the establishment of mutual help child-care centres.

112. The Free Assistance Scheme helps low-income families with a social need meet the cost of day-care for children. Families who are unable to provide adequate care for their children during the day as a result of parents going out to work, or single-parent families or families with an aged or disabled member who needs special care are eligible for such assistance.

113. The Child-Care Services Ordinance and the Child-Care Centres Regulations set standards and provide regulatory control over child-care centres. The Child-Care Centres Advisory Inspectorate of the Social Welfare Department deals with all matters relating to the implementation of the Child-Care Services Ordinance. To ensure compliance with the Child-Care Centres Regulations, inspectors of the Child-Care Centres Advisory Inspectorate regularly inspect crèches and nurseries. A Code of Practice has been issued for the reference of child-care centre operators. Legislative provisions under the Child-Care Services Ordinance, which took effect in September 1997, facilitate the formation of mutual help child-care groups, to regulate child-minding services and to improve the quality of care in child-care centres.

Working conditions

Maternity protection

114. The Labour Department has a vigorous publicity and education programme to enhance female employees' awareness of their rights and benefits in respect of maternity protection. Exhibitions, seminars and training courses are organized regularly to provide employers and employees with the latest relevant information. Publications covering the legislation are distributed freely to female employees and their employers.

115. Legislation in respect of maternity protection is covered in paragraphs 95-97 above.

Occupational Safety and Health Ordinance and subsidiary regulations

116. The Occupational Safety and Health Ordinance and the Occupational Safety and Health Regulations ensure the safety and health of employees when they are at work. The legislation provides the same standard of protection of the health and safety of male and female employees in all sectors. The Regulations also specify pregnancy as one of the factors to be considered in the risk-assessment exercise in relation to manual handling operations.

Factories and Industrial Undertakings Ordinance and subsidiary regulations

117. The Factories and Industrial Undertakings Ordinance and its subsidiary regulations are the Region's principal law on industrial health and safety. They prescribe requirements for the prevention of accidents and diseases, including detailed rules for certain trades and work processes. The relevant provisions apply to industrial undertakings such as factories, mines, quarries, shipbuilding, construction work and catering establishments. The legislation provides the same standard of protection of health and safety for men and women.

Social Security

118. Women's right to social security is discussed in the section dealing with article 13, below.

Article 12. Equality in access to health facilities

The Sex Discrimination Ordinance

119. Women's right of access to health-care services is protected by legislation. Section 28 of the Sex Discrimination Ordinance provides that:

> "28. Discrimination in provision of goods, facilities or services
>
> (1) It is unlawful for any person concerned with the provision (for payment or not) of goods, facilities or services to the public or a section of the public to discriminate against a women who seeks to obtain or use those goods, facilities or services -
>
> (a) by refusing or deliberately omitting to provide her with any of them; or
>
> (b) by refusing or deliberately omitting to provide her with goods, facilities or services of the like quality, in the like manner and on the like terms as are normal in his case in relation to male members of the public or (where she belongs to a section of the public) to male members of that section."

Furthermore, there is an exception provided for in the Sex Discrimination Ordinance which exempts those acts of differential treatment between male and female where there is a need to comply with health and safety considerations that are reasonable in the circumstances. This exception is included for the protection of women.

Government strategy and targets

120. The health of women in Hong Kong has always been accorded high priority. Mindful of women's important role in health promotion and care for the family, the Government offers a comprehensive range of promotive, preventive, curative and rehabilitative health-care services for women of all ages to safeguard and promote their health and that of their families. Women have equal access with men to heavily subsidized health-care services in hospitals, general out-patient clinics, student health service centres, elderly health centres and specialized clinics, such as those for tuberculosis and chest, skin and social hygiene. They also enjoy ready access to maternal and child health centres, family planning clinics and women's health centres. Depending on affordability, women furthermore have a choice of services provided by the private and subsidized sectors.

Access to care

Provision of service to the Hospital Authority

121. The Hospital Authority provides a comprehensive range of medical treatment and rehabilitation services to patients through hospitals and specialist clinics.

122. Specialist medical services in such areas as internal medicine, surgery, orthopaedics and traumatology, and radiotherapy and oncology provide equal treatment opportunities for men and women in the territory. Some services and programmes, e.g. obstetrical and gynaecological services, are specially designed to cater for the needs of women.

Provision of service by the Department of Health

123. The Department of Health enhances the health of the community through the provision of primary health-care services. A range of promotive and preventive programmes are available to women of child-bearing age in the Maternal and Child Health Service, and to women of perimenopausal age in the Women's Health Service. Services such as antenatal, intrapartum and postnatal care and family planning advice are delivered through 50 maternal and child health centres and six maternity homes distributed throughout the Region. All pregnant women have access to trained personnel throughout pregnancy and during delivery. In 1997, 23,205 pregnant women visited maternal and child health centres for antenatal care, while 21,484 mothers have used the postnatal service. Some 119,741 women of child-bearing ages have registered for family planning services.

124. In 1996 the maternal mortality rate was 3.1 per 100,000 total births, which compared favourably with those of other countries. The crude death rates for females and males are 4.4 and 5.8 respectively per 1,000 population of respective sex. The leading causes of death among females are malignant neoplasms; heart disease, including hypertensive heart disease; pneumonia; cerebrovascular diseases; and injury and poisoning, in decreasing order of magnitude. The crude birth rate in 1997 was 9.1 per 1,000.

125. The Department of Health places special emphasis on the prevention of diseases which are specific and prevalent in the female population. These include breast cancer, cervical cancer, hypertension, diabetes mellitus and osteoporosis.

126. In addition to the health promotional activities, screening services directed towards prevalent diseases in the form of physical check-ups, laboratory tests or radiological examinations are available in maternal and child health centres and women's health centres. For example, cervical cytology screening for detection of early asymptomatic cervical cancer is provided in all maternal and child health centres and women's health centres. Services provided by the private and subsidized sectors complement public service.

Women's health centres

127. The first women's health centre was opened in May 1994. It provides health education, counselling and screening for women aged 45 and above. Screening includes general check-ups and gynaecological examinations, simple laboratory tests as well as cervical smear tests for cervical cancer. An annual fee of HK$ 310 is charged for these services. Another HK$ 225 is required if mammograms are taken. Two similar centres were established in 1996 and 1997. Similar services are also provided by the private and subsidized sectors.

Health education

128. The Central Health Education Unit of the Department of Health is responsible for planning, organizing and promoting health education activities for the community. The Unit conducts various activities, including audio-visual productions dealing with women's health, talks and training courses for women's groups with a view to promote health among women. For example, four Women Health Ambassador Training Courses were run with 226 attendees in 1997.

129. The Family Planning Association of Hong Kong, a Government-subsidized organization, periodically organizes education programmes for the community. In 1994 to 1996, the Association launched a two-year 3H (Healthy, Happy and Harmonious) Family Campaign to advocate the concept of marriage and family, emphasize the importance of family planning and promote the importance of health in building a happy and harmonious family. The Association also launched a two-year Family Sex Education Campaign in 1996 to arouse public awareness of the issue.

130. The Health Care and Promotion Fund aims to step up efforts in the areas of health promotion and disease prevention, and to provide assistance to certain patients in need. The Fund also provides grants to non-profit organizations for organizing projects or conducting research to promote health care and preventive care.

Family planning

Education

131. Sex education is included in general studies, biology, human biology, science, social studies, home economics, religious studies and liberal studies courses at the primary, secondary and sixth form levels. In the revised Guidelines on Sex Education in Schools, the following key concepts and topics are included in the suggested curriculum: the need for family planning; birth control, including how various methods work and their degree of reliability and implications; population dynamics; contraception and religious beliefs/ethics; the side effects of different contraceptive methods; and so forth. Teacher training courses on sex education are organized regularly by the Advisory Inspectorate Division of the Education Department, which also sponsors similar courses run by the Family Planning Association of Hong Kong. In these courses teachers are trained with the necessary skills and knowledge to teach students about contraception and pregnancy. Teaching packages and educational television programmes have been produced by the Education Department to supplement the teaching of these topics.

Family planning facilities

132. Comprehensive family planning facilities are provided in the public, subsidized and private sectors. The maternal and child health centres and the Family Planning Association of Hong Kong both run birth control clinics. The Association also offers premarital counselling, sterilization, vasectomies and advice on infertility.

Abortion

133. The Offences against the Person Ordinance provides for medical termination of pregnancy by a registered medical practitioner in an approved hospital or clinic if two registered medical practitioners are of the opinion, formed in good faith, that continuance of pregnancy would involve risk to the physical or mental health of either the pregnant woman or the child.

Article 13. Women in economic, social and cultural life

Family benefits: social security

Overall objective of social security

134. The Government's social security policy is to meet the basic and special needs of the disadvantaged, including the financially vulnerable, the elderly and the severely disabled. All local residents, irrespective of their sex, race or religion, enjoy the right to social security. This is achieved through a comprehensive social security system administered on an entirely non-contributory basis. The Comprehensive Social Security Assistance (CSSA) Scheme and the Social Security Allowance (SSA) Scheme are two prominent features of the system. CSSA provides a safety net for those who, for various reasons such as old age, disability, temporary illness, low income or unemployment, are unable to meet the basic needs of living. SSA helps the elderly and the

severely disabled meet special needs arising from old age and/or invalidity. A person can receive either assistance under the CSSA Scheme or one of the allowances under the SSA Scheme. Both schemes are non-contributory and non-statutory. They are wholly funded from the general revenue and are administered by the Social Welfare Department.

Comprehensive Social Security Assistance (CSSA) Scheme

135. The CSSA Scheme is means-tested. It provides cash assistance to recipients at levels which are relevant to the conditions in the HKSAR and to the needs of the recipients. With this assistance, recipients can meet their essential needs such as food, rent, clothing, transport. In addition, all CSSA recipients are entitled to free medical treatment at public hospitals or clinics. As at end March 1998, some 297,000 people were receiving assistance under the Scheme. Amongst them, it is estimated that about 50 per cent were female recipients.

136. A comprehensive review to examine how effectively the CSSA Scheme was meeting the needs of the recipients was completed in 1996. During the review, the CSSA standard rates were objectively evaluated and their adequacy tested by comparing the rates with the expenditure of general households and those on CSSA, and against the estimated costs for such basic needs as food, clothing, fuel and light, etc. The review resulted in real increases in standard rates of 9-57 per cent for specific groups of recipients, an increase in the maximum rent allowance, the introduction of flat-rate grants for students for school-related expenses, two special grants for the elderly and relaxation of asset limits as of April 1996.

137. Another result of the review, was the implementation of a new scheme as from 1 April 1997 whereby elderly CSSA recipients who choose to leave the HKSAR to take up permanent residence in Guangdong Province on the Mainland could continue to receive their monthly standard rate payment and the annual long-term supplement. By the end of March 1998, a total of 870 elderly CSSA recipients had opted to participate in this Portable CSSA Scheme, and 730 had since retired to Guangdong.

138. The Government is currently reviewing the assistance rendered to "employable" adults under the CSSA Scheme with a view to ensuring that these recipients are assisted and encouraged to rejoin the workforce.

Eligibility for the CSSA Scheme

139. To be eligible for the CSSA Scheme, a person must have resided in Hong Kong for at least one year. In cases of genuine hardship, this criterion may be waived. CSSA recipients who are able-bodied, aged 15 to 59 and available for work, must register with the Labour Department for job placement.

Rates of assistance under the CSSA Scheme

140. As at 1 April 1998, the standard rates were:

	Single person HK$ per month	Family member HK$ per month
Elderly person aged 60 years or older		
Able-bodied/50 per cent disabled	2 555	2 410
100 per cent disabled	3 095	2 735
Requiring constant attendance	4 355	3 990
Able-bodied adults under the age of 60		
Single parent/family caregiver	-	1 965
Others	1 805	1 610
Ill health/Disabled adult under the age of 60		
Ill health/50 per cent disabled	2 160	1 965
100 per cent disabled	2 700	2 335
Requiring constant attendance	3 955	3 590
Child		
Able-bodied	2 160	1 795
50 per cent disabled	2 880	2 510
100 per cent disabled	3 420	3 055
Requiring constant attendance	4 670	4 315

In order to encourage persons receiving CSSA to become financially independent, earnings up to the equivalent of the able-bodied adult rate ($1,805) are disregarded in the calculation of assistance provided. Assets (up to a maximum of HK$ 37,000 for a single applicant and HK$ 18,500 per additional family member) are disregarded in the calculation of assistance provided. Under the current arrangement, the value of property owned but lived in by an applicant is also disregarded.

141. In addition, people who have received assistance continuously for 12 months also receive an annual long-term supplement. This is to pay for the replacement of essential household items. With effect from 1 April 1998, the amount is HK$ 1,605 for a single person; HK$ 3,210 for a family with two to four members; and HK$ 4,305 for a family with five or more members.

Other special grants under the CSSA Scheme

142. In addition to the CSSA standard rates, there are special grants to cover costs such as rent, school fees and other educational expenses, medically recommended diets, glasses, dentures and burials. These are paid as and when they are needed. Although no special grants are provided specifically for women, the majority of single parents are in fact women, and they are given single parent supplements under the CSSA Scheme.

Revision of rates under the CSSA Scheme

143. To maintain the purchasing power of the allowance, the standard rates are revised annually to take account of inflation. The level and scope of special grants are also reviewed periodically to cover the actually cost of the items covered or inflation, and to meet the changing needs of recipients.

144. Over the years, the CSSA Scheme has been improved to ensure that payment rates are better tailored to meet the needs of recipients. In addition to annual inflation adjustments made in accordance with increases in the cost of living, real increases to the payment rates have also been made to enable recipients to share in Hong Kong's growing wealth. Over the last two decades (1978-1998), the CSSA rate for a single able-bodied adult has increased about eight times, whereas inflation has increased about four times. The average monthly CSSA payments for 1997/98 range from $3,250 for a single person to $10,740 for a family of four, representing 32-105 per cent of the median wage.

145. More recently, the monthly payment to an elderly CSSA recipient had been increased by 10-20 per cent in real terms with the objective of encouraging the elderly to continue to lead a healthy and socially active life after their retirement. With this additional allowance, the monthly payment to a single elderly person will average about $3,670 and that for an elderly couple will be $5,980, representing respectively 36 per cent and 58 per cent of the median wage.

Social Security Allowance (SSA) Scheme

146. The SSA Scheme includes the old age allowance and disability allowance which takes the form of a monthly flat-rate allowance to elderly persons aged 65 or above and to persons with a disability. Rates are revised annually to take account of inflation. To ensure that the Scheme continues to meet its objectives, the HKSAR Government is conducting a review of the Scheme.

Old age allowance (OAA)

147. The old age allowance is payable to elderly persons who have lived in Hong Kong for at least five years. It is non-means-tested for those aged 70 and above. The current rate of this allowance is HK$ 705. A lower allowance of HK$ 625 is payable to those aged between 65 and 69 who have made a simple declaration that their income and assets do not exceed the prescribed limits. As at end March 1998, some 441,000 people were receiving this allowance.

Disability allowance (DA)

148. The disability allowance is not means-tested but is payable to persons of all ages who are certified by recognized medical authorities to be suffering from a disability broadly equivalent to 100 per cent loss of earning capacity. The current rate of this allowance is HK$ 1,260 per month. A higher rate of HK$ 2,520 is paid to those who need constant daily attendance from others and who are not receiving such care in a government or subsidized institution. Disability allowance applicants must satisfy a one-year residence requirement. As at end March 1998, some 77,000 people were receiving this allowance.

Government expenditure on social security

149. In the 1997/98 financial year, the Government spent a total of HK$ 14,362 million on social security, including administrative costs. This represented 7 per cent of total government expenditure and 1 per cent of GDP for the year 1997. The corresponding figures for the 1987/88 financial year were HK$ 1,846 million, or 4 per cent of total government expenditure in that financial year and 0.5 per cent of GDP for the year 1987. The increase over the 10-year period is due to improvements to the various schemes. For example, there were real increases in the levels of benefits under the CSSA Scheme, and coverage of special grants was increased.

150. As at end March 1998, approximately 815,200 people (or 12 per cent of the population) received social security payments under the CSSA Scheme or the SSA Scheme, compared with 405,100 people (or 7 per cent of the population) 10 years ago. Elderly people constituted 75 per cent of these recipients. The substantial increase in the number of social security recipients could be due to a number of reasons, including growing public awareness of social security benefits following increased publicity efforts by the Government, improved benefits under the Schemes and the change in public attitudes towards receiving public assistance.

Family benefits: tax allowance

151. Under the current tax system, men and women have the same rights and obligations. Each married person is individually responsible for all aspects of his or her own income tax affairs, including the filing of tax returns and payment of the tax assessed. However, married couples may elect to be jointly assessed.

152. A number of allowances are deductible from the taxable income of all taxpayers, regardless of their sex or marital status. Taxpayers may claim a child allowance in respect of their children. Allowances may also be claimed in respect of dependent brothers, sisters, parents or grandparents of taxpayers or their spouses who are maintained by the taxpayers or their spouses during the year of assessment. In addition, a disabled dependant allowance is granted if the dependant concerned is eligible to claim an allowance under the Government's Disability Allowance Scheme.

153. In addition, a single parent allowance may be claimed by widows, widowers and unmarried, separated or divorced persons if at any time during the year of

assessment the taxpayer had the sole or predominant care of his/her child in respect of whom he/she is entitled to a child allowance.

Loans, mortgages and credit

154. The Sex Discrimination Ordinance renders it unlawful for anyone who provides banking or insurance facilities to discriminate against a person on the grounds of sex by refusing or deliberately omitting to provide them with those facilities. There are no bars on women's access to bank loans, mortgages or consumer credit and they do not need the consent of their husbands or fathers to apply for such services. Authorized institutions mainly base their credit decisions on such criteria as the financial and repayment ability of the applicants and do not accord differential treatment to applicants for reasons of gender.

Recreation, sports and cultural life

The arts

155. The Hong Kong Arts Development Council is the statutory body tasked with planning, promoting and supporting the broad development of the arts.

156. In the financial year 1997/98, total expenditure for arts activities funded by the Government and the two Municipal Councils/Provisional Municipal Councils amounted to over HK$ 2 billion. Women artists are treated on a par with their male peers.

Sports

157. In 1997/98, the two Municipal Councils/Provisional Municipal Councils organized some 25,000 recreation and sports programmes. The two Councils' "Sports for All" policy aims to offer opportunities to all regardless of race, class, sex or disability.

158. The Hong Kong Sports Development Board is the statutory body tasked with promoting the development of sports and physical recreation in Hong Kong. It encourages the practice of sports and physical recreation at all levels. One of its aims is to develop a sporting culture that enables and values the full involvement of women in every aspect of sports.

159. The Hong Kong Sports Development Board also provides funding to support programmes run by international sports associations as well as elite athletes' training and participation in their chosen sports. Grants are made on the basis of the merit of the programmes and performance of individual athletes regardless of gender. Ms. Lee Lai-shan, who won a gold medal in the 1996 Olympic Games, is an example of a successful athlete who receives funding support from the Board and training provided by the Hong Kong Sports institute. Ms. Lee is, to date, Hong Kong's only Olympic gold medal winner ever.

160. There are about 70 private organizations occupying land under private recreational leases which provide recreational facilities for their members. One of the major factors considered in the granting or renewal of such leases is

whether or not the organizations have adopted a non-discriminatory membership policy.

Article 14. Rural women

161. in view of the small area of the HKSAR, it is not practicable to distinguish women in the rural areas from those who live in urban areas. All parts of the Region are served with electricity, water and sanitation services. Goods, services and facilities for women are provided for women in all parts of the territory.

Article 15. Equality in legal and civil matters

Reservation

162. The Government of the People's Republic of China, on behalf of the Hong Kong Special Administrative Region, understands the intention of article 15, paragraph 3, of the Convention to be that only those terms or elements of a contract or other private instrument which are discriminatory in the sense described are to be deemed null and void, but not necessarily the contract or instrument as a whole. This reservation is necessary in order to ensure that only the relevant discriminatory provision of a contract will be deemed null and void without affecting the legal integrity of the whole contract. For example, in the context of employment, a female employee can rectify a particular contract provision without re-entering into an entirely new contract.

163. The Chinese Government reserves for the Hong Kong Special Administrative Region the right to continue to apply relevant immigration legislation governing the entry into, stay in and departure from the Region as may be deemed necessary from time to time. Accordingly, acceptance of article 15, paragraph 4, and of the other provisions of the Convention is subject to the provisions of any such legislation as regards persons not at the time having the right under the laws of the Region to enter or remain in the Region. This reservation is also relevant to paragraphs 174 and 175 of this report.

Women's legal status

Bill of Rights

164. All the rights recognized in the Hong Kong Bill of Rights, as set out in the Hong Kong Bill of Rights Ordinance, are enjoyed by everyone without distinction, including that of sex. The Ordinance, which gives effect in local law to the provisions of the International Covenant on Civil and Political Rights as applied to the HKSAR, guarantees, inter alia, the right to liberty and security of person, the right to equality before the courts, the right to a fair and public hearing, and the right to be presumed innocent until proved guilty according to law.

Women's right to make contracts in their own name

165. According to the laws of the HKSAR, a person, regardless of sex, shall attain full age on attaining the age of 18 years. Therefore, a women who is aged 18 or above is no longer a minor and can enter into contracts in her own name.

Treatment of women in court

166. No differential treatment is shown to men and women in court. Women are given similar damage awards as men in comparable circumstances. Women and men are also sentenced similarly in comparable circumstances. However, the court may give clemency in order to avoid having a female defendant give birth in prison or if a female defendant needs to take care of young children. The testimony of a woman is given the same weight as that of a man. However, under the existing laws, evidence regarding sexual offences relating to the procurement of a female under 21 or a woman who is mentally defective for the purpose of having unlawful sexual intercourse must be corroborated.

Appointment to the judiciary

167. Women enjoy the same rights as men do to be appointed to the judiciary. Assessment as to suitability for judicial appointment is based on a candidate's professional ability (knowledge and application of the law), personal conduct, temperament and ability in case management. The gender of the candidate is not one of the assessment criteria. As at the end of June 1998, there are 26 females in the judiciary out of a total of 151 judges and judicial officers.

Other areas

168. The Married Persons Status Ordinance was enacted to ensure that the status of a married woman should be considered to be the same as that of a single person. A married woman is capable of acquiring, holding and disposing of any property; attracting liability in respect of any tort, contract, debt or obligation; suing or being sued; acting as a trustee or executor; and receiving income from property that was given to her as her separate property.

169. Women are entitled to serve on juries, as there is no restriction under the Jury Ordinance on service of jurors by women. As at end June 1998, there were a total of 269,355 persons on the Common Jurors' List, of whom 126,397 (46.9 per cent) were female.

Succession of landed properties in the New Territories

170. Section 13 of the New Territories Ordinance used to provide that in proceedings relating to land in the New Territories, the courts shall have power to recognize and enforce any Chinese custom or customary right affecting such land. New Territories land under individual ownership was inherited according to the Chinese customary law of succession. In practice, that entailed succession along the male line. The surviving widows and daughters of the deceased were maintained by the male successors as part of this tradition.

171. The New Territories Land (Exemption) Ordinance was enacted on 24 June 1994 to remove this inhibition against women inheriting land and real estate in the New Territories. The Ordinance provides for the application of the general laws of inheritance in the New Territories. In respect of non-rural land in the New Territories, all such land is exempted from Part II of the New Territories Ordinance except land held in the name of any clan, family and tong. The exemption is deemed to have effect from the date of the grant of the government lease. In respect of rural land, except land held in the name of any clan, family or tong, all such land is exempted from Part II of the New Territories Ordinance for the purpose of succession to such land from the commencement of the Ordinance on 24 June 1994. Thus Chinese customary succession law no longer applies to these lands. The right of women to succeed to land and real estate in the New Territories is now the same as that of their counterparts in the urban areas.

New Territories land policies

172. Rent concessions in respect of certain rural properties owned by indigenous villagers and tsos/tongs[5] are provided for in Annex III to the Joint Declaration. Hence, to enable the continuation of this policy, a reservation has been entered.

173. The reservation entered also provides for continuation of the present HKSAR legislation which enables male indigenous villagers to exercise certain rights in respect of property. Under the small house policy a male indigenous villager may apply, once in his lifetime, to build a small house on his own land or government land. This policy is now exempted from the operation of the Sex Discrimination Ordinance. Nevertheless, there has been criticism that the policy is discriminatory, since female indigenous villagers do not benefit from it. The HKSAR Government has undertaken to review this policy. A review committee has been set up for this purpose and is examining the various issues relating to the policy, including article 40 of the Basic Law, which concerns the protection of the lawful traditional rights and interests of the indigenous villagers. The aim is to complete the review in 1998; the outcome of this exercise will form the basis of consultation with the Heung Yee Kuk (which represents the indigenous community) and the Legislative Council.

Movement and choice of residence

Hong Kong Bill of Rights and Basic Law

174. Article 8 of the Hong Kong Bill of Rights guarantees the right to liberty of movement and freedom to choose one's residence. This right is guaranteed to everyone lawfully within HKSAR without distinction. Article 31 of the Basic Law provides that Hong Kong residents shall have freedom of movement within Hong

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[5] A tso/tong is an association of persons who collectively own an area or areas of ancestral or clan land. A tso usually takes the name of a deceased person and is formed by the members of the same clan whereas in the case of a tong, the persons concerned are not necessarily members of the same clan and the land is held and managed for the benefit of the tong members only.

Kong, freedom of emigration to other countries and regions, and freedom to travel and to enter or leave Hong Kong.

Women's legal rights to liberty of movement and freedom to choose their residence

175. Men and women have the same rights to liberty of movement and freedom to choose their residence as guaranteed under article 8 of the Hong Kong Bill of Rights and article 12 of the International Covenant on Civil and Political Rights.

Article 16. Equality in family law

The Hong Kong Bill of Rights and Basic Law

176. Article 19 of the Hong Kong Bill of Rights guarantees rights in respect of marriage and family. It provides that the family is the natural and fundamental group unit of society and is entitled to protection by society and the State; that the right of men and women of marriageable age to marry and to found a family shall be recognized; that no marriage shall be entered into without the free and full consent of the intending spouses; that spouses shall have equal rights and responsibilities as to marriage, during marriage and at its dissolution, and that in the case of dissolution, provision shall be made for the necessary protection of any children. Article 37 of the Basic Law provides that the freedom of marriage of Hong Kong residents and their right to raise a family freely shall be protected by law.

Rights in respect of marriage

Marriage Ordinance

177. The right of men and women to enter into monogamous marriage with their full and free consent is guaranteed under the Marriage Ordinance. Bigamy was rendered illegal under the Offences against the Person Ordinance.

178. Before 1990, the Marriage Ordinance provided that the age at which a person could marry was 16, and parental consent was required if the person intending to marry was under 21. A person under the age of 21 who had been refused consent to marry by a parent or guardian could not marry. In 1990, section 18A of the Marriage Ordinance was added, following the enactment of the Age of Majority (Related Provisions) Ordinance, and now provides that, where consent has been withheld by a parent or guardian, a District Judge may, on application being made, consent to the marriage, and his consent shall have the same effect as if it had been given by the person refusing consent.

179. In 1991, these measures were further strengthened by Article 19(2) of the Hong Kong Bill of Rights, which recognizes the right of men and women of marriageable age to marry and to found a family. Article 19(3) states that no marriage shall be entered into without the free and full consent of the intending spouses.

180. The original section 14 of the Marriage Ordinance provided that only fathers might consent to the marriages of any of their children between 16 and 21. Mothers could only give consent where the fathers were either dead or insane. To remove the discriminatory elements, amendments were made to the Marriage Ordinance to enable either parent to give consent to marriages of their children aged between 16 and 21.

Matrimonial Causes Ordinance

181. There were gender-biased provisions in the Matrimonial Causes Ordinance which provided for differential treatment between men and women. They concerned the definition of "dependants", the jurisdiction of the courts and the citation of co-respondents in divorce proceedings. These provisions have all been amended to remove the inequality.

Recovery of maintenance

Maintenance orders

182. The Matrimonial Proceedings and Property Ordinance and the Separation and Maintenance Orders Ordinance provide for maintenance orders to be made by the court in cases of divorce, separation or desertion by a party to a marriage. There is no differential treatment between men and women under these Ordinances.

Recovery of maintenance from overseas

183. The Maintenance Orders (Reciprocal Enforcement) Ordinance provides for the recovery of maintenance by persons in the HKSAR from persons in reciprocating countries. Again, men and women are being treated the same.

Guardianship of Minors Ordinance

184. In the Guardianship of Minors Ordinance, a mother has the same right and authority as does a father. In the event that parents separate or divorce, either parent may apply to the court for an order requiring payment of maintenance for the minor by the parent who has been excluded from the minor's custody. In the event of the death of a parent, where a third party has been appointed by the court to be the minor's guardian, the guardian may also apply for an order requiring the surviving parent to pay the minor's maintenance.

Legislation regarding guardianship, wardship and adoption of children

Adoption Ordinance

185. Under the Adoption Ordinance, women, both as parents of an infant to be adopted and as applicants for an adoption order, enjoy the same rights as their male counterparts. In fact, while the court must be satisfied that there are special circumstances which justify as an exceptional measure the making of an order in respect of a female infant in favour of a sole applicant who is a male, there is no such condition in relation to a female applicant applying to adopt a male infant.

The Guardianship of Minors Ordinance

186. The Guardianship of Minors Ordinance consolidates the law relating to the guardianship of minors. Under this Ordinance, the court, having regard to a minor's welfare, may appoint any person to be the minor's guardian, or make orders in respect of his/her custody, maintenance and right of access of either parent to the minor.

Appendix B

The Hong Kong Bill of Rights

CHAPTER 383

HONG KONG BILL OF RIGHTS ORDINANCE

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CHAPTER 383

HONG KONG BILL OF RIGHTS

An Ordinance to provide for the incorporation into the law of Hong Kong of provisions of the International Covenant on Civil and Political Rights as applied to Hong Kong; and for ancillary and connected matters.

[8 June 1991]

PART I

PRELIMINARY

1. Short title

This Ordinance may be cited as the Hong Kong Bill of Rights Ordinance.

2. Interpretation

(1) In this Ordinance, unless the context otherwise requires—

"article" means an article of the Bill of Rights;

"Bill of Rights" (人權法案) means the Hong Kong Bill of Rights set out in Part II;

"commencement date" (生效日期) means the date on which this Ordinance comes into operation;

"legislation" (法例) means legislation that can be amended by an Ordinance;

"pre-existing legislation" (先前法例) means legislation enacted before the commencement date.

(2) The Bill of Rights is subject to Part III.

(4) Nothing in this Ordinance shall be interpreted as implying for the Government or any authority, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized in the Bill of Rights or at their limitation to a greater extent than is provided for in the Bill. [*cf. ICCPR Art. 5.1*]

(5) There shall be no restriction upon or derogation from any of the fundamental human rights recognized or existing in Hong Kong pursuant to law, conventions, regulations or custom on the pretext that the Bill of Rights does not recognize such rights or that it recognizes them to a lesser extent. [*cf. ICCPR Art. 5.2*]

(6) A heading to any article does not have any legislative effect and does not in any way vary, limit or extend the meaning of the article.

5. Public emergencies

(1) In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, measures may be taken derogating from the Bill of Rights to the extent strictly required by the exigencies of the situation, but these measures shall be taken in accordance with law.

(2) No measure shall be taken under subsection (1) that—

(*a*) is inconsistent with any obligation under international law that applies to Hong Kong (other than an obligation under the International Covenant on Civil and Political Rights);

(*b*) involves discrimination solely on the ground of race, colour, sex, language, religion or social origin; or

(*c*) derogates from articles 2, 3, 4(1) and (2), 7, 12, 13 and 15.

[*cf. ICCPR Art. 4*]

6. Remedies for contravention of Bill of Rights

(1) A court or tribunal—

(*a*) in proceedings within its jurisdiction in an action for breach of this Ordinance; and

(*b*) in other proceedings within its jurisdiction in which a violation or threatened violation of the Bill of Rights is relevant,

may grant such remedy or relief, or make such order, in respect of such a breach, violation or threatened violation as it has power to grant or make in those proceedings and as it considers appropriate and just in the circumstances.

(2) No proceedings shall be held to be outside the jurisdiction of any court or tribunal on the ground that they relate to the Bill of Rights.

7. Binding effect of Ordinance

(1) This Ordinance binds only—

(*a*) the Government and all public authorities; and

(*b*) any person acting on behalf of the Government or a public authority.

(2) In this section—

"person" (人) includes any body of persons, corporate or unincorporate.

PART II

THE HONG KONG BILL OF RIGHTS

8. Hong Kong Bill of Rights

The Hong Kong Bill of Rights is as follows.

Article 1

Entitlement to rights without distinction

(1) The rights recognized in this Bill of Rights shall be enjoyed without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

(2) Men and women shall have an equal right to the enjoyment of all civil and political rights set forth in this Bill of Rights.

[*cf. ICCPR Arts. 2 & 3*]

Article 2

Right to life

(1) Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

(2) Sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of this Bill of Rights and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgment rendered by a competent court.

(3) When deprivation of life constitutes the crime of genocide, nothing in this article shall authorize the derogation in any way from any obligation assumed under the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide.

(4) Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.

(5) Sentence of death shall not be imposed for crimes committed by persons below 18 years of age and shall not be carried out on pregnant women.

(6) Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment in Hong Kong.

[*cf. ICCPR Art. 6*]

Article 3

No torture or inhuman treatment and no experimentation without consent

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

[*cf. ICCPR Art. 7*]

Article 4

No slavery or servitude

(1) No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited.

(2) No one shall be held in servitude.

(3) (*a*) No one shall be required to perform forced or compulsory labour.

(*b*) For the purpose of this paragraph the term "forced or compulsory labour" shall not include—

(i) any work or service normally required of a person who is under detention in consequence of a lawful order of a court, or of a person during conditional release from such detention;

(ii) any service of a military character and, where conscientious objection is recognized, any national service required by law of conscientious objectors;

(iii) any service exacted in cases of emergency or calamity threatening the life or well-being of the community;

(iv) any work or service which forms part of normal civil obligations.

[*cf. ICCPR Art. 8*]

Article 5

Liberty and security of person

(1) Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

(2) Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.

(3) Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgment.

(4) Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.

(5) Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

[*cf. ICCPR Art. 9*]

Article 6

Rights of persons deprived of their liberty

(1) All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

(2) (*a*) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons.

(*b*) Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.

(3) The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.

[*cf. ICCPR Art. 10*]

Article 7

No imprisonment for breach of contract

No one shall be imprisoned merely on the ground of inability to fulfil a contractual obligation.

[*cf. ICCPR Art. 11*]

Article 8

Liberty of movement

(1) Everyone lawfully within Hong Kong shall, within Hong Kong, have the right to liberty of movement and freedom to choose his residence.

(2) Everyone shall be free to leave Hong Kong.

(3) The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in this Bill of Rights.

(4) No one who has the right of abode in Hong Kong shall be arbitrarily deprived of the right to enter Hong Kong.

[*cf. ICCPR Art. 12*]

Article 9

Restrictions on expulsion from Hong Kong

A person who does not have the right of abode in Hong Kong but who is lawfully in Hong Kong may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons against his expulsion and to have his case reviewed by, and be represented for the purpose before, the competent authority or a person or persons especially designated by the competent authority.

[*cf. ICCPR Art. 13*]

Article 10

Equality before courts and right to fair and public hearing

All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order (ordre public) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgment rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.

[*cf. ICCPR Art. 14.1*]

Article 11

Rights of persons charged with or convicted of criminal offence

(1) Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.

(2) In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality—

(*a*) to be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;

(*b*) to have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;

(*c*) to be tried without undue delay;

(*d*) to be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;

(*e*) to examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

(*f*) to have the free assistance of an interpreter if he cannot understand or speak the language used in court;

(*g*) not to be compelled to testify against himself or to confess guilt.

(3) In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.

(4) Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.

(5) When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.

(6) No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of Hong Kong.

[*cf. ICCPR Art. 14.2 to 7*]

Article 12

No retrospective criminal offences or penalties

(1) No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under Hong Kong or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time when the criminal offence was committed. If, subsequent to the commission of the offence, provision is made by law for the imposition of a lighter penalty, the offender shall benefit thereby.

(2) Nothing in this article shall prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by the community of nations.

[*cf. ICCPR Art. 15*]

Article 13

Right to recognition as person before law

Everyone shall have the right to recognition everywhere as a person before the law.

[*cf. ICCPR Art. 16*]

Article 14

Protection of privacy, family, home, correspondence, honour and reputation

(1) No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.

(2) Everyone has the right to the protection of the law against such interference or attacks.

[*cf. ICCPR Art. 17*]

Article 15

Freedom of thought, conscience and religion

(1) Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

(2) No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.

(3) Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

(4) The liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions shall be respected.

[*cf. ICCPR Art. 18*]

Article 16

Freedom of opinion and expression

(1) Everyone shall have the right to hold opinions without interference.

(2) Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

(3) The exercise of the rights provided for in paragraph (2) of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary—

(*a*) for respect of the rights or reputations of others; or

(*b*) for the protection of national security or of public order (ordre public), or of public health or morals.

[*cf. ICCPR Art. 19*]

Article 17

Right of peaceful assembly

The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

[*cf. ICCPR Art. 21*]

Article 18

Freedom of association

(1) Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.

(2) No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.

(3) Nothing in this article authorizes legislative measures to be taken which would prejudice, or the law to be applied in such a manner as to prejudice, the guarantees provided for in the International Labour Organization Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize as it applies to Hong Kong.

[cf. ICCPR Art. 22]

Article 19

Rights in respect of marriage and family

(1) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

(2) The right of men and women of marriageable age to marry and to found a family shall be recognized.

(3) No marriage shall be entered into without the free and full consent of the intending spouses.

(4) Spouses shall have equal rights and responsibilities as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children.

[cf. ICCPR Art. 23]

Article 20

Rights of children

(1) Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.

(2) Every child shall be registered immediately after birth and shall have a name.

[cf. ICCPR Art. 24]

Article 21

Right to participate in public life

Every permanent resident shall have the right and the opportunity, without any of the distinctions mentioned in article 1(1) and without unreasonable restrictions—

(*a*) to take part in the conduct of public affairs, directly or through freely chosen representatives;

(*b*) to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;

(*c*) to have access, on general terms of equality, to public service in Hong Kong.

[cf. ICCPR Art. 25]

Article 22

Equality before and equal protection of law

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

[cf. ICCPR Art. 26]

Article 23

Rights of minorities

Persons belonging to ethnic, religious or linguistic minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

[cf. ICCPR Art. 27]

PART III

EXCEPTIONS AND SAVINGS

9. Armed forces and persons detained in penal establishments

Members of and persons serving with the armed forces of the government responsible for the foreign affairs of Hong Kong and persons lawfully detained in penal establishments of whatever character are subject to such restrictions as may from time to time be authorized by law for the preservation of service and custodial discipline.

10. Juveniles under detention

Where at any time there is a lack of suitable prison facilities or where the mixing of adults and juveniles is mutually beneficial, article 6(2)(*b*) and (3) does not require juveniles who are detained to be accommodated separately from adults.

11. Immigration legislation

As regards persons not having the right to enter and remain in Hong Kong, this Ordinance does not affect any immigration legislation governing entry into, stay in and departure from Hong Kong, or the application of any such legislation.

12. Persons not having the right of abode

Article 9 does not confer a right of review in respect of a decision to deport a person not having the right of abode in Hong Kong or a right to be represented for this purpose before the competent authority.

13. Executive and Legislative Councils

Article 21 does not require the establishment of an elected Executive or Legislative Council in Hong Kong.

14. Temporary savings

(1) For a period of 1 year beginning on the commencement date, this Ordinance is subject to the Ordinances listed in the Schedule.

(2) This Ordinance does not affect—

(*a*) any act done (including any act done in the exercise of a discretion); or

(*b*) any omission authorized or required, or occurring in the exercise of a discretion,

before the first anniversary of the commencement date, under or by any Ordinance listed in the Schedule.

(3) The Legislative Council may before the first anniversary of the commencement date by resolution amend this section for all or any of the following purposes—

(*a*) to provide that, for a period of 1 year beginning on the first anniversary of the commencement date, this Ordinance is subject to such of the Ordinances listed in the Schedule as are specified in the amendment;

(*b*) to provide that this Ordinance does not affect—

(i) any act done (including any act done in the exercise of a discretion); or

(ii) any omission authorized or required, or occurring in the exercise of a discretion,

before the second anniversary of the commencement date, under or by any Ordinance listed in the Schedule that is specified in the amendment; and

(*c*) to repeal this subsection.

(4) In this section, a reference to an Ordinance includes a reference to any subsidiary legislation made under that Ordinance.

(5) This section operates notwithstanding section 3.

SCHEDULE [s. 14]

PROVISIONS TO WHICH SECTION 14(1) AND (2) APPLIES

Immigration Ordinance (Cap. 115)

Societies Ordinance (Cap. 151)

Crimes Ordinance (Cap. 200)

Prevention of Bribery Ordinance (Cap. 201)

Independent Commission Against Corruption Ordinance (Cap. 204)

Police Force Ordinance (Cap. 232)

Appendix C

Proportion of females in total employment by major occupational category

(Percentage)

	1993	1997
Managers, administrators and professionals	30	32
of which:		
Managers and administrators	16	20
Professionals	32	32
Associate professionals	40	37
Clerks	68	70
Service workers and shop sales workers	35	40
Craft and related workers	5	3
Plant and machine operators and assemblers	27	18
Elementary occupations	48	52
Others	24	25
Total	37	39

Note: Due to a change in the occupational classification, comparisons for the years prior to 1993 cannot readily be made.

Source: General Household Survey.

Appendix D

Offences designed to prevent the exploitation of persons for sexual purposes

Offences	No. of cases reported				No. of persons arrested				Maximum penalty
	1994	1995	1996	1997 (up to July)	1994	1995	1996	1997 (up to July)	
Keeping a vice establishment	317	371	474	250	464	442	593	316	Imprisonment for 10 years (on indictment) Imprisonment for 3 years (on summary conviction)
Trafficking to or from HKSAR in women	80	27	15	1	20	5	1	0	Imprisonment for 10 years
Causing prostitution of women	3	22	15	5	1	19	21	8	Imprisonment for 10 years
Causing or encourage prostitution of, intercourse with, or indecent assault on girls under 16	5	1	3	0	3	0	1	0	Imprisonment for 10 years
Living on earnings of exploitation of prostitution	236	234	252	101	159	178	160	57	Imprisonment for 10 years
Exercising control over persons for purposes of prostitution	2	5	0	2	2	4	0	1	Imprisonment for 14 years

Appendix 8

Statistics on the drop-out rate for male and female students, 1994/95 to 1996/97

School years		Males	Percentage	Females	Percentage	Total	Percentage
1994/	Student enrolment	375 410		351 835		727 263	
	No. of drop-outs	1 271	56	992	44	2 263	100
	Drop-out rate	0.335%		0.278%		0.308%	
199 /96	Student enrolment	375 410		351 853		727 263	
	No. of drop-outs	1 012	56	785	44	1 797	100
	Drop-out rate	0.270%		0.223%		0.247%	
1996/97	Student enrolment	377 859		349 222		727 081	
	No. of drop-outs	992	54	856	46	1 848	100
	Drop-out rate	0.263%		0.245%		0.254%	

Appendix F

Number of schools by level and by sex, 1997-1998

Level	Type of schools			Total
	Co-ed	Boys	Girls	
Primary	807	14	25	846
Secondary	378	43	47	468

Source: Education Department.

Appendix G

Student participation in school sports events in Hong Kong, 1996-1997

Local inter-school sports competitions

Level	No. of sports	Girls	Boys
Secondary	20	20 165	36 326
Primary	10	18 291	28 309

Inter-port and international school sports competitions

Level	No. of sports	Girls	Boys
Inter-port	9	94	154
International	5	25	43

Appendix H

First degree graduates of programmes funded by the University Grants Committee by academic programme category and sex

Year	Academic programme category	Female		Male		Total
		No.	Percentage of total	No.	Percentage of total	
1995-96	Medical, dental and health	436	52	408	48	844
	Sciences	972	34	1 914	66	2 886
	Engineering and tech.	319	12	2 237	88	2 556
	Business and mgt.	1 989	61	1 272	39	3 261
	Social sciences	1 282	69	571	31	1 853
	Arts and humanities	1 572	81	378	19	1 950
	Education	241	60	163	40	404
	Grand total	6 811	50	6 943	50	13 754
1996-97	Medical, dental and health	426	53	372	47	798
	Sciences	1 051	37	1 798	63	2 849
	Engineering and tech.	446	15	2 538	85	2 984
	Business and mgt.	2 357	62	1 458	38	3 815
	Social sciences	1 404	72	547	28	1 951
	Arts and humanities	1 590	80	410	20	2 000
	Education	265	70	114	30	379
	Grand total	7 539	51	7 237	49	14 776

Appendix I

Trainees enrolled in vocational training courses offered by the Vocational Training Council, 1996-1997 financial year

Training courses	Trainees enrolled	
	Total (No.)	Female (%)
Insurance	4 062	71
Wholesale/retail and import/export trades	6 246	57
Banking	8 636	56
Hotel industry	2 219	48
Information technology	7 340	44
Textile industry	944	44
Printing industry	771	32
Jewellery industry	216	18
Plastic industry	3 586	15
Precision tooling	1 357	7
Electronics industry	2 631	6
Seamen's	4 367	5
Electronic design technology	1 645	5
Electrical industry	3 111	4
Automobile industry	583	4
Welding and related trades	1 116	2
Gas industry	284	1
Machine-shop and metalworking industry	4 015	0.2
Total	53 129	33

Appendix J

Number of academic staff by grade and sex of institutions funded by the University Grants Committee

Academic staff grade	1994-1995				1995-1996				1996-1997			
	Female	%	Male	Total	Female	%	Male	Total	Female	%	Male	Total
A. Professor	11	4	248	259	12	4	259	271	15	5	280	295
B. Reader	17	8	194	211	21	9	214	235	24	9	231	255
C. Senior Lecturer (U)	87	14	528	615	87	14	534	621	91	15	506	597
D. Principal Lecturer (P)	11	25	33	44	9	25	27	36	13	23	43	56
F. Senior Lecturer (P)	38	25	113	151	33	24	103	136	68	33	140	208
G. Lecturer (U)	572	22	2 043	2 615	585	22	2 105	2 690	591	22	2 103	2 694
H. Lecturer (P)	255	33	508	763	167	29	417	584	307	36	538	845
I. Assistant Lecturer	63	39	98	161	47	37	81	128	42	36	75	117
J. Instructor	143	54	124	267	159	57	120	279	152	55	123	275
K. Dem./tutor/teaching assistant	219	28	569	788	374	34	730	1 104	472	37	802	1 274
L. Other, including language assistant, field work supervisor etc.	47	64	26	73	48	69	22	70	62	70	27	89
Total	1 463	25	4 484	5 947	1 542	25	4 612	6 154	1 837	27	4 868	6 704

Notes:

1. The above figures refer to departmental academic staff with salary wholly funded from General Funds.

2. The HKIEd came under the aegis of the UGC with effect from 1 July 1996.

Appendix K

Labour force by sex and by age

(Percentage)

	1987			1992			1997		
Age	Male	Female	Total	Male	Female	Total	Male	Female	Total
15-19	3	2	5	2	2	4	1	1	2
20-29	19	16	35	15	14	29	13	13	26
30-39	18	9	27	20	11	31	20	14	33
40-49	10	5	15	13	6	20	16	8	24
50-59	9	3	12	8	3	11	8	3	11
60 and above	4	2	6	4	1	5	3	1	4
Overall	63	37	100	63	37	100	61	39	100

Source: General Household Survey.

Appendix L

Labour force participation rate by sex and by age

	1987	1992	1997
Male			
15-19	32.5	28.5	21.3
20-29	93.8	90.9	87.9
30-39	99.0	98.7	98.2
40-49	98.2	97.8	97.1
50-59	87.5	86.6	85.5
60 and over	36.4	32.3	23.4
Overall	80.3	78.1	75.7
Female			
15-19	29.5	22.2	17.0
20-29	78.5	80.6	80.4
30-39	53.6	55.2	64.3
40-49	54.6	52.6	53.2
50-59	36.8	32.2	35.7
60 and over	13.6	8.0	4.1
Overall	48.7	46.3	48.0
Both sexes			
15-19	31.0	25.5	19.2
20-29	86.2	85.6	84.0
30-39	77.5	77.2	80.8
40-49	78.9	77.1	75.8
50-59	63.8	61.1	62.6
60 and over	24.0	19.4	13.3
Overall	64.9	62.4	61.8

Source: General Household Survey.

Appendix H

Employed persons by education attainment and by age

(Percentage)

	1987			1992			1997		
	Male	Female	Overall	Male	Female	Overall	Male	Female	Overall
No schooling/ kindergarten	4	10	6	3	5	4	2	2	2
Primary	33	35	34	28	19	24	21	15	19
Secondary/ matriculation	51	51	51	55	59	57	57	59	57
Tertiary	12	13	12	14	17	15	21	24	22
Total	100	100	100	100	100	100	100	100	100

Note: Because the numbers are rounded up, the totals do not necessarily equal the added sums.

Source: General Household Survey.

Appendix N

Unemployment rate and underemployment rate by sex

(Percentage)

	Unemployment rate		
	1987	1992	1997
	(%)	(%)	(%)
Male	1.7	2.0	2.3
Female	1.8	1.9	2.0
Overall	1.7	2.0	2.2

	Underemployment rate		
	1987	1992	1997
	(%)	(%)	(%)
Male	1.7	2.5	1.5
Female	0.8	1.4	0.7
Overall	1.0	2.1	1.2

Source: General Household Survey.

Appendix 0

Proportion of females in total employment by major economic sector

(Percentage)

	1987	1992	1997
Manufacturing	46	39	36
Construction	5	5	6
Wholesale, retail and import/export trades, restaurants and hotels	36	41	44
Transport, storage and communications	13	16	19
Financing, insurance, real estate and business services	40	44	40
Community, social and personal services	47	52	60
Overall	37	37	39

Source: General Household Survey.